

**Investigative Report
for
Town of Brookline
Regarding
Discrimination & Workplace Safety Complaints**

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**By
Officer Estifanos Zerai-Misgun
and
Officer Prentice Pilot**

The Town of Brookline has requested my services conduct an extensive investigation as to discrimination and Work Place Safety allegations made by two Patrol Officer of the Brookline Police Department, Patrol Officer Estafanos Zerai-Misgun and Patrol Officer Prentice Pilot.

The complaints by Officer Zerai-Misgun and Officer Pilot area specifically related to violations of the Discrimination, Sexual Harassment and Retaliation Policy and the Work Place Safety Policy of the Town of Brookline.

Complaint - Officer Zerai-Misgun alleged that Lieutenant [REDACTED], Officer [REDACTED], and Officer [REDACTED] utilized racial derogatory statements or were aware of racial derogatory statements to demean him as an officer and human being in the Brookline Police Department.

Complaint - Officer Pilot alleged that Sergeant [REDACTED] utilized racial derogatory statements to demean him as an officer and human being in the Brookline Police Department.

In conducting the investigation I reviewed hundreds of pages of documents pertaining to these allegations. The following is a complete list of the documents that were reviewed;

- Conclusion to the internal Affairs Investigation relative to Officer Pilot

- Final Internal Affairs Report for Officer Zerai-Misgun incidents dating back to December of 2014
- Report from Commissioner O'Leary relative to both cases (Officer Pilot and Officer Zerai-Misgun
- Department Actions from December 7, 2015 December 16, 2015
- Report Conducted by Superintendent Andrew Lipson
- All official forms filed by Officer Prentice Pilot and Officer Zerai-Misgun
- All e-mails and letters relative to this investigation
- Request for leave of absence associated with these complaints
- Written Statements made by the Diversity and Inclusion Department for the Town of Brookline at the Community meeting on January 5, 2016
- Transcript of the Board of Selectman Meeting held on January 5, 2016
- Any Prior Complaints of discrimination, harassment or violence reports for the past five years for Sergeant [REDACTED], Officer [REDACTED], Officer [REDACTED] and Lieutenant [REDACTED]
- Reports and or communication provide to and from the Town of Brookline Board of Selectman
- Copies of all certified mail to Officer Prentice Pilot and Officer Zerai-Misgun relative to the Town of Brookline's Discrimination, Sexual Harassment and Retaliation Policy and Work Place Safety Policy
- Videos of the Verizon paid detail on December 4, 2015
- Interview reports from the Verizon Personnel at the location of the paid detail
- Miscellaneous Documents from;
 - a. Letters to Officers Zerai-Misgun and Officer Pilot
 - b. December 18, 2015 Emails to all Police personnel from Chief O'Leary
 - c. Letter to the Editor of the Brookline TAB from Chief O'Leary published January 7, 2016
 - d. January 7, 2016 Letter from Brookline Police Union, Executive Board to union members
 - e. Summary of in service police training
 - f. January 14, 2016, WGBH Interview transcript
- Miscellaneous Reports regarding various alleged allegations and assignment request for Officer Zerai-Misgun
- Miscellaneous Reports regarding various alleged allegations and assignment request for Officer Pilot
- Federal Lawsuit

- Massachusetts Commission Against Discrimination
- The Town of Brookline Position Statement as related to the complaints made by Officer Zerai-Misgun and Officer Pilot.

In addition to the review of these documents I have interviewed the following individuals:

1. Lieutenant [REDACTED]
2. Selectperson [REDACTED]
3. Officer [REDACTED]
4. Officer [REDACTED]
5. [REDACTED]
6. Selectman [REDACTED]
7. Officer [REDACTED]
8. Ms. Sandra Debow Huang, Director of Human Resource Department
9. Sergeant [REDACTED]
10. Deputy Superintendant Andrew Lipson
11. Officer [REDACTED]
12. Sergeant [REDACTED]
13. Officer Estifanos Zerai-Misgun
14. Superintendent Mark Morgan
15. Police Chief Daniel O'Leary
16. Officer Prentice Pilot
17. Officer [REDACTED]

I had brief discussions with Hillary Schwab, Attorney representing Officer Pilot and Officer Zerai-Misgun for the discrimination complaints filed with the Massachusetts Commission Against Discrimination, and [REDACTED] regarding communications with Selectman [REDACTED]

The summary, findings and conclusions can be found on pages 24 – 27 for the investigative report relative to Officer Prentice Pilot and pages 32 – 35 for the investigative report relative to Officer Zerai-Misgun.

Respectfully Submitted

Reginald Nunnally

Investigation

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Complaints:

Racism and Racial Discrimination within the Brookline Police Department located at 350 Washington St. Brookline Massachusetts.

Officer Zerai-Misgun verbally alleged that Lieutenant [REDACTED] Officer [REDACTED], and Officer [REDACTED] utilized racial derogatory statements or were aware of racial derogatory statements to demean him as an officer and human being in the Brookline Police Department. Officer Zerai-Misgun Attorney Hillary Schwab (see Exhibit A1) contacted me and requested his statement as related to MCAD complaint be his official statement, (Officer Zerai-Misgun), Official statement. (see Exhibit A)

These alleged complaints would be in violation of the town of Brookline's Discrimination, Sexual Harassment and Workplace Safety Policy that was revised in July of 2013. (see exhibit B)

Independent Investigation Scope of Service:

The town of Brookline hired Reginald A. Nunnally as a special investigator to conduct the following scope of services as it pertains particularly to this investigation.

1. Review and comment as appropriate on all pertinent Town policies and procedures, including the Policy Against Discrimination, Sexual Harassment and Retaliation and the Workplace Safety
2. Review and investigate pursuant to the Town's Policy Against Discrimination, Sexual Harassment and Retaliation and Workplace Safety Policy any and all complaints or allegations regarding discrimination, retaliation, ostracizing and/or feeling unsafe at work and any reasons therefore brought to the Town's attention at any time by Officers Zerai-Misgun and/or Pilot by either or both of them or by any individual on their behalf, including, but not limited to, complaints made on or about December 23, 2014 and December 7, 2015 and thereafter.
3. Review the procedures that were followed by Town staff (including within the Police Department and the Human Relations Department) in connection with the foregoing 2014 and 2015 complaints for their compliance with the Town's Policy Against Discrimination, Sexual

Harassment and Retaliation and with generally-accepted best practices.

4. Provide the Town Administrator with a confidential report regarding the foregoing with any recommendations for further action. (see exhibit C)

To get a better overall understanding of Institutionalized Racism I thought I would begin this investigation by defining it to determine if the definition aligns itself with any of the allegations.

Institutionalized Racism

Institutional racism is a form of racism expressed in the practice of social and political institutions, as distinct from racism by individuals or informal social groups. It is reflected in disparities regarding criminal justice, employment, housing, health care, political power and education, among other things. Whether implicitly or explicitly expressed, institutional racism occurs when a certain group is targeted and discriminated against based upon race.

Institutional racism can go unnoticed as it is not always explicit and can be overlooked. Institutional racism is defined as: "The collective failure of an organization to provide an appropriate and professional service to people because of their color, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behavior which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantages minority ethnic people."

The concept of institutional racism re-emerged in political discourse in the late 1990s after a long hiatus, but has remained a contested concept that has been critiqued by multiple constituencies. Institutional racism is the differential access to the goods, services, and opportunities of society. When the differential access becomes integral to institutions, it becomes common practice, making it difficult to rectify. Eventually, this racism dominates public bodies, private corporations, public and private universities, and is reinforced by the actions of conformists and newcomers. Another difficulty in reducing institutionalized racism is that there is no sole, true identifiable perpetrator. When racism is built into the institution, it emerges as the collective action of the population.

There are three major types of racism: (a) Personally mediated, (b)

internalized, and (c) institutionalized.

A. Personally mediated racism includes the specific social attitudes inherent to racially prejudiced action (bigoted differential assumptions about abilities, motives, and the intentions of others according to), discrimination (the differential actions and behaviors towards others according to their race), stereotyping, commission, and omission (disrespect, suspicion, devaluation, and dehumanization).

B. Internalized racism is the acceptance, by members of the racially stigmatized people, of negative perceptions about their own abilities and intrinsic worth, characterized by low self-esteem, and low esteem of others like them. This racism can be manifested through embracing "whiteness" (e.g. stratification by skin color in non-white communities), self-devaluation (e.g., racial slurs, nicknames, rejection of ancestral culture, etc.), and resignation, helplessness, and hopelessness (e.g., dropping out of school, failing to vote, engaging in health-risk practices, etc.). Persistent negative stereotypes fuel institutional racism, and influence interpersonal relations. Racial stereotyping contributes to patterns of racial residential segregation and redlining, and shape views about crime, crime policy, and welfare policy, especially if the contextual information is stereotype-consistent.

C. Institutional racism is distinguished from racial bigotry by the existence of institutional systemic policies, practices and economic and political structures which place minority racial and ethnic groups at a disadvantage in relation to an institution's racial or ethnic majority. One example is public school budgets in the U.S. (including local levies and bonds) and the quality of teachers, which in the are often correlated with property values: rich neighborhoods are more likely to be more 'white' and to have better teachers and more money for education, even in public schools. Restrictive housing contracts and bank lending policies have also been listed as forms of institutional racism. Other examples sometimes described as institutional racism are racial profiling by security guards and police, use of stereotyped racial caricatures, the under- and mis-representation of certain racial groups in the mass media, and race-based barriers to gainful employment and professional advancement. Additionally, differential access to goods, services, and opportunities of society can be included within the term *institutional racism*, such as unpaved streets and roads, inherited socio-economic disadvantage, and "standardized" tests (each ethnic group prepared for it differently; many are poorly prepared).

Some sociological investigators distinguish between institutional racism and "structural racism" (sometimes called structured racialization). The former focuses upon the norms and practices within an institution, the latter upon the *interactions* among institutions, interactions that produce racialized outcomes against non-white people. An important feature of structural racism is that it cannot be reduced to individual prejudice or to the single function of an institution.

Officer Zerai-Misgun's Interview:

I Informed Officer Zera-Misgun the reason for the interview was to conduct an independent investigation of the allegations of ongoing racial discrimination. I also reiterated that I was hired by the Town of Brookline to conduct 4 independent investigations two of which involved allegations of discrimination and work place safety regarding statements he, Officer Zera-Misgun made to Police Chief O'Leary.

Officer Estifano Zerai-Misgun

- I. Officer Zerai-Misgun stated that he had been a police officer for approximately 3 years, He very much liked the work that he had been doing within the town of Brookline and stated that him coming forward made him feel extremely uncomfortable and somewhat awkward around his white colleagues.
- II. These incidences occurred in various places, one was in a bar, another was in the rear of the public safety building parking lot, inside of the Police station Located at 350 Washington Street, Brookline Mass and on a public street

III. The officers involved are:

- a. Lt. [REDACTED]
- b. Officer [REDACTED]
- c. Officer [REDACTED]

- IV. In January 2016 Officer Zerai-Misgun described a number of incidences whereby he was subjected to verbal abuse of a racial nature. Officer Zerai-Misgun stated that he attended a graduation party from the Police Academy when a Police recruit's () female friend called him a nigger while celebrating and having drinks at a bar. Officer Zerai-Misgun indicated the recruit did not reprimand his friend, giving Officer Zerai-Misgun the perception the racial slur was okay with the Police recruit and did not have a problem with his friend using the offensive racial slur. In interviewing Officer he indicates that he did not hear his girl friend at the time say the word "nigger" and did not think that she would use that racial slur (See Officer Statement Page)
- V. On other occasions Officer Zerai-Misgun stated he had worn a hooded sweatshirt, some of the white officers (No names disclosed) referred to him as an FI (Field Investigator) stipulating that the white officers would record identifying information because they consider him a suspicious person.
- VI. At least on one occasion several officers were discussing the college education incentive program, one of the officers (No names disclosed) made a comment highlighting that Officer Zerai-Misgun did not have a college degree but has a GED, versus graduating from Brookline High school. Officer Zerai-Misgun stated he understood this to mean he was less qualified for the position as a police officer because he was Black. Officer Zerai-Misgun indicated he is not a college graduate but has completed some college courses but not enough to achieve a degree at the time these remarks were being expressed.
- VII. On another occasion Officer was backing up a Brookline Police cruiser in the rear of the Public Safety building located at 350 Washington St. Brookline Mass, Officer Zerai-Misgun

walked from behind the police cruiser and Officer [REDACTED], who was driving the vehicle stated to him "I didn't see you, you must have had your eye's closed" or words to that effect. Officer Zerai-Misgun indicated that Officer [REDACTED], a Black police officer, was in the vehicle and had witnessed the incident. In interviewing Officer [REDACTED] he confirmed that Officer [REDACTED] did in fact make the statement but he (Officer [REDACTED]) said it in a joking manner and Officer Zerai-Misgun did not appear to be offended by the statement (See Officer [REDACTED] Statement Page) In a subsequent interview with Officer [REDACTED] he recalls saying something but was not quite clear as to what he said. But, he stated "regardless of what I said it was said in n a teasingly manner to someone I considered to be a friend and did not intentionally say, what ever he said, it to be demeaning". (See Officer [REDACTED] Statement Page)

VIII. Officer Zera Misgun periodically was assigned to an unmarked Brookline Police vehicle, on one occasion an off duty officer (Lieutenant [REDACTED]) crossed in front of his unmarked vehicle and stated "What the fuck! Who would put a black man behind one of these?" (unmarked police cruisers.). I interviewed Lieutenant [REDACTED] and he absolutely denies having said that remark. He stated that in fact he was the individual that had assigned officer Zerai-Misgun to the vehicle. (See Lt. [REDACTED] Statement Page) Officer Zerai-Misgun indicated Lt. [REDACTED] statement was witnessed by other Police Officers who were attending a training at Boston University. The Training included Officers from all over the country. Unfortunately I was not able to interview any of these individuals from out of state.

IX. On other occasions white officers (No Names Disclosed) allegedly taunted him by providing officer Zerai-Misgun a call sign of 1-Black-70, of which Officer Zerai-Misgun felt clearly was referencing Officer Zerai-Misgun and his Race as oppose to 1-Bravo-

70. A careful review of the logs provided by the Brookline Police Department does not indicate any such call sign (See Exhibit D)

X. Officer Zerai-Misgun indicated that these remarks had been made over a period of time Approximately (Dec 2013 – December 2014), he stated he was uncomfortable in reporting this to his supervisor for fear of being labeled as a malcontented Black Police Officer within the Brookline Police Department but in December of 2014, felt that unless he reported these incidents these comments would continue and the climate of racism within the Brookline Police Department would persist. Officer Zerai-Misgun indicated the comments made him feel increasingly unwanted amongst his fellow white police officers and thought it was time to report the racial comments as well as the racial climate he had witnessed and been subjected to for a significant period of time as a Brookline Police Officer.

XI. Officer Zerai-Misgun discussed the incidences with his family, Officer Pilot and Officer [REDACTED] back in December of 2014. Officers Pilot and Officer [REDACTED] encouraged Officer Zerai-Misgun to come forward and meet with Chief Dan O'Leary, He agreed and contacted Chief O'Leary to arrange a meeting to discuss the incidences and was accompanied, for support by Officer Pilot and Officer [REDACTED], as he made the complaints. Pilot and [REDACTED] also conveyed their own experiences with experiences of what they perceived to be racially discriminatory behavior.

XII. When asked, why he waited so long to come forward, Officer Zerai-Misgun stated he had internalized these incidences with the hope that they would ultimately self correct. In December of 2014 it became evident that the racial slurs would persist and decided to step forward with the hope that Chief O'Leary would be able to correct the situation.

- XIII. After meeting with Chief O'Leary, the Police Chief met with his command staff indicating that this type of behavior was not to be tolerated and wanted it noted at Command Staff as well as roll call. **(See Chief O'Leary Statement Page)**
- XIV. In January of 2015 it was made clear that these types of comments as well as racial climate was not to be tolerated within the Brookline Department.
- XV. In February/March of 2015 Officer Zerai-Misgun became ill and was on extended leave through August of 2015. Unfortunately, Officer Zerai-Misgun had very little accumulated sick time as he had only been on the Brookline Police force a short period of time, approximately 90 police officers contributed a sick day to afford Officer Zerai-Misgun to continue to be paid and afford to maintain his health insurance. **(See Exhibit E)**
- XVI. Officer Zerai-Misgun indicated that the incidences were never investigated by either the Police Department or the Human Resource Department. In interviewing both the Police Chief O'Leary as well as the Director of Human Resources for the Town of Brookline, Sandra Debow Huang, they both agreed with this statement with mitigating circumstances. **(See exhibit Statements F and G)**. Chief O'Leary indicated that in good faith he was working with Officer's Zerai-Misgun, Officer Pilot and Officer [REDACTED] to develop tools that could help prevent any issues of discriminatory behavior in the future and focused on working with the group to develop a training program. Unfortunately Officer Zerai-Misgun became ill and Chief O'Leary then became concerned with his health and well being. **(See Exhibit Statement F)** Director Debow Huang stated that she became more involved in providing a process for creating a sick leave bank to insure Officer Zerai-Misgun continued to be paid and could afford his health insurance. Upon Officer Zerai-Misgun return to work in

August he allegedly made statements to the Police Chief that he was appreciative of the police officers contributions to his sick leave bank and wanted to move forward. (See Exhibit H)

XVII. From January of 2015 through December 7, 2015 there were no complaints reported of any racial or discriminatory behavior.

XVIII. I asked Officer Zerai-Misgun if he had ever received the Discrimination, Sexual Harassment and Retaliation Policy. He, Officer Zerai-Misgun, confirmed he had received the policy from the Human Resource Department but does not recall receiving any training associated with the policy. He also confirmed he receives a copy through the mail an annual basis.

XIX. Officer Zerai-Misgun also indicated that he does not recall speaking with the Human Rights Department Director nor does he recall her reaching out to him as it relates to these racial/discriminatory allegations.

XX. After Officer Pilot made his complaint of discrimination to Chief O'Leary on December 7, 2015, Officer Zerai-Misgun stopped reporting to work and requested to utilize available sick and vacation time

XXI. In late December Mr. Lloyd Gellineau, the Director of the Diversity and Inclusion Department sent a letter to Officer Zerai-Misgun offering assistance from the his department. Officer Zerai-Misgun did not respond, (See Exhibit I)

XXII. Town of Brookline requested Officer Zerai-Misgun to complete the appropriate forms to utilize FMLA sick leave. Forms were not

returned to either the Brookline Police Department nor the Town of Brookline's Human Resource Department. **(See exhibit J)**

XXIII. January 26, 2016, Complainants joined the federal lawsuit pending in the United States District Court as co-Plaintiffs in that litigation. **(See exhibit K)** At the time of joining the federal lawsuit, Officer Zerai-Misgun stopped cooperating with the investigation.

XXIV. On February 8, 2016, Complainants withdrew from the *federal* lawsuit.

XXV. On February 24, 2016, Complainants filed MCAD complaints. **(See exhibit L)**

XXVI. April 25, 2016 Officer Zerai-Misgun contacted me to discuss his statement and indicated that his attorney Hillary Schwab would be in contact with me.

XXVII. April 25, 2016 Officer Zerai-Misgun attorney Hillary Schwab contacted me requesting the statement/complaint made to the Massachusetts Commission Against Discrimination be utilized as his official statement for the investigation currently underway **(See exhibit A and A1)**

Statement by Police Chief Daniel C. O'Leary
Regarding discrimination complaint by Officer Zerai-Misgun

December 2014 Meeting

December 23, 2014 Chief O'Leary met with Patrol Officer Zerai-Misgun, Patrol Officer Pilot and Patrol Officer [REDACTED], the officers indicated they had requested the meeting to discuss some of the derogatory racial comments directed towards Patrol Officer Zerai-Misgun.

Patrol Officer Pilot and Patrol Officer [REDACTED] indicated they were in attendance to support Patrol Officer Zerai-Misgun. These two Officers did indicate that they have heard derogatory comments over their careers but they were older and that they were there to support Patrol Officer Zerai-Misgun.

Chief O'Leary asked Patrol Officer Zerai-Misgun to describe the comments that were of a racial nature.

Patrol Officer Zerai-Misgun indicated that on a number of occasions he had been the victim of derogatory racial comments:

- A. At the graduation party from the Police Academy Patrol Officer Zerai-Misgun was speaking with another Brookline recruit while at a bar drinking. The girlfriend of this officer came up and called him the N-word.
- B. On many occasions, Patrol Officer Zerai-Misgun had worn a hooded sweatshirt. On some of these occasions, other officers have said to him words such as; now I can get my FI, meaning they will record his identifying information because they consider him a suspicious person.
- C. Recently an officer was backing up a cruiser in the rear of the station. Patrol Officer Zerai-Misgun walked from behind the cruiser and the driver/officer said to him "I didn't see you; you must have had your eyes closed".
- D. Patrol Officer Zerai-Misgun has completed some college, but not enough to obtain a degree. One night several Officers were talking about our college education incentive, one of them made a comment that he doesn't have a degree but he does have a GED.
- E. On a number of occasions Patrol Officer Zerai-Misgun is assigned to the patrol unmarked vehicle. When assigned here, an officer works in plain clothes. One night, an off-duty officer crossed in front of his cruiser. Patrol Officer Zerai-Misgun stated that he felt the officer had

been drinking. The officer said words to the effect - "Why would they let a black officer behind the wheel of an unmarked car."

- F. When assigned to the patrol unmarked vehicle, the officer is given a call sign to use such as 1. Bravo 12. At times, when he is assigned here the officers have referred to him as the 1. Black 12.

Patrol Officer Zerai-Misgun continued by saying these comments have been ongoing from late 2013 through late December 2014. He felt these comments were directed towards him because he is Black. Chief O'Leary and the three officers developed and agreed to the following action plan:

1. The Chief would address the entire matter with command staff at the January 7, 2015 meeting. I told them that this entire matter would be brought up and that I would inform the Command Staff of the allegations made and that they had to stop.
2. A training program specific to Brookline dealing with race. Patrol Officer [REDACTED] asked about having training specific to the Brookline Police Department. This was talked about and it was agreed to develop it. The Chief asked that the three of them work on developing the training curriculum. They were pleased with this suggestion. We spoke about using a panel of diverse Officers to engage the class and some of the topics, such as the impact that comments can have on others and some more implicit bias training. We also talked about some training we have already done in this area. Officer Pilot said that he had been talking with his people at Harvard and that they are aware of what is going on in the Police Department. He said that this type of training is what they do and he volunteered to contact them and work with them on it. We continued to speak about how to set it up and I asked P.O. Pilot to try to get a price from Harvard on what it would cost the PD. It was agreed that the three officers would work with the Chief to develop this training and that Officer Pilot suggested and agreed to work with Harvard University to assist us in developing this training. It was also agreed that the three officers would be instrumental in the design of the program and work with the Chief on it..
3. We talked about the need to determine the identities of the Officers who made the statements to Officer Zerai-Misgun. Initially, P.O. Zerai-Misgun said he did not want to reveal any identities. I told him that my opinion was that I needed their identities in order to appropriately address the matter. We talked about this for a while. Eventually, I told him that the Department felt he was a very good

Officer who did his job well. I informed him that he had been selected to participate in the temporary six month patrol position in Detectives. I also said it was even more critical that he identify the officers involved because he was being placed in this position with a fellow academy classmate - [REDACTED]. Eventually he did tell me that it was P.O. [REDACTED] girlfriend who said the N word to him at a bar after the academy exams. I told him that I thought they were good friends and that they drove to the academy together. At some point I asked him if the two had talked about this and he said they had not. He said they have not been as friendly recently because of this. He felt P.O. [REDACTED] heard the word being said and that he should have said something. During this conversation I asked him if any supervisors were involved. He said no. At the end of our conversation he expressed a desire not to have the officers punished and the Chief agreed that nothing would occur that made Patrol Officer Zerai-Misgun uncomfortable.

Officer Zerai-Misgun and the Chief spoke about the fact that his name would become known to the members of the Department. In fact, the Chief said to him that people probably knew that we are having this meeting in my office right now. I explained how I thought that it would be better to identify him because we could better correct things if people knew who we were talking about. The Chief told him that he wanted to use his name at the meeting. The Chief believes he was good with that and agreed to it. At the end of our conversation he expressed a desire not to have the officers punished and the Chief agreed that nothing would occur that made Patrol Officer Zerai-Misgun uncomfortable.

After the December 2014 Meeting

He eventually (before the Jan 7 meeting) identified a second officer as being the one involved in the incident behind the police station. At the time he informed me of these two identities, he said he did not want them spoken to at that point.

Before the January Command staff meeting the Chief and Superintendent Mark Morgan met with then Patrol Captain [REDACTED] and the Third Platoon Commander, Lieutenant [REDACTED]. The Chief informed them what had occurred and that he was going to strongly address the comments directed towards Patrol Officer Zerai-Misgun at the meeting in early January. The Chief also said that he would strongly stress to the Supervisors his expectations for the Department going forward and that he wants the information to be discussed with the officers at the roll calls.

I did go to the Command Staff meeting on January 7. I opened it up to talk about the year-end review of the Department and set out an agenda for 2015. After I did this I told the Command Staff that I was going to address something that was not good. I told them that I thought that our Department was past these issues that were raised in my office by three Officers in December. I explained the allegations made by Officer Zerai-Misgun. I told them that I knew who two of the Officers who were alleged to have said things were. I told them that Officer Zerai-Misgun had talked to me about them and that they were said to him and that, under no uncertain terms, comments like these were unacceptable and had to stop. I told them that I wanted the entire Department addressed on this issue, that they were to speak at roll calls etc so that every Officer is made aware of what is going on. I told them if these types of comments continued, then Officers would be putting their jobs in jeopardy. I spoke to them about what would happen if there was any retaliation towards the officers and I told them that if anyone did this they would lose their job. I told them that Officer Zerai-Misgun didn't want to see anyone get in trouble but that he wanted it to stop. At the end I asked if there were any questions but there were none. Although I do not have a personal memory of having told those present that I wanted P.O. Zerai-Misgun's identity kept confidential, several supervisors who were present have recently told me that I did, in fact, say that as part of my talk.

Several days later, I began to distribute commendations for excellent police work based on performance during the last quarter of 2014. I gave these out, in person, at roll calls. When I did that it also gave me an opportunity to address the Officers about the situation and I spoke to several roll calls about this.

Later, I was able to facilitate a telephone conversation between Officer Zerai-Misgun and P.O. [REDACTED]. After this telephone conversation, Officer Zerai-Misgun called me and spoke to me about it. During this conversation, he again asked me not to speak with the second officer, [REDACTED]. He said he did not know him that well and that a lot of officers had said things to him. He also indicated that he wanted to move on.

During one of our telephone conversations in January, Officer Zerai-Misgun indicated he was looking forward to going onto the day shift as well as the Detective Division later in the year and expressed a desire to get the situation behind him and move forward.

He talked about his desire to get things behind him and move on on several occasions. On one occasion he said that a number of officers have called, texted etc. him to offer their support.

Subsequently the Chief had several conversations with Patrol Officer Zerai-Misgun until he went out extended sick leave from March of 2015 through approximately mid-August 2015. Unfortunately Patrol Officer Zerai-Misgun did not have adequate sick leave to keep him on the payroll. The Chief approached the Town's Human Resources Director and the Town Administrator about establishing a sick bank for Officer Zerai-Misgun. Officers would be permitted to donate one of their sick days to this bank for Officer Zerai-Misgun to use so that his pay was covered during his illness and that he did not suffer any loss of pay. In total, 93 officers contributed sick time to Patrol Officer Zerai-Misgun to allow him to continue to be paid during the time he was out sick.

Patrol Officer Zerai-Misgun has not reported to me any other incidences of derogatory racial comments nor any incidents of retaliation since the matters were addressed at the command staff meeting in January of 2015.

In addition Patrol Officer Pilot indicated he was too busy to follow through with providing guidance as to an effective training program. Chief O'Leary indicated he continued to pursue the idea and would be rolling out an 8 hour training program in March of 2016. The training program would be conducted by Brookline and Cambridge Officers, including a highly regarded black female Deputy Superintendant from Cambridge.

The Detective rotation was postponed and no officers were deployed to the division.

Statement by Sandra Debow, Director of the Human Resource Department for the town of Brookline.

Ms. Debow was going on vacation and for the sake of efficiency she conducted the interview via this questionnaire

- 1. Officer Zera-Misgun has alleged racial discrimination based on a number of racial and derogatory comments made during 2013, and 2014**
To your understanding, what was the specific complaint lodged by Zera-Misgun

In our first telephone conversation, the Police Chief indicated to me that Officer Misgun had reported to him that Officer Misgun had heard statements over time that, although stated in a joking manner, bothered him enough that he felt he must report them. The statements were, generally, "Eyes closed? I can't see you," and "can you wear a hoodie so we can get our FIs from you?" and "Why would the Department put a black officer behind the wheel of an unmarked car?" There was also an indication that the girlfriend of a police officer was at a bar with him and used the term "n****r toward him. I had the impression that there was a series of statements that had been made to the point and that he felt it was pervasive enough that he had to report the matter to the Chief.

I read the specific comments as reported in the February 5, 2015 Investigatory report.

- 2. When were you first notified of the Complaints from PO Zera-Misgun**

My records indicate that Chief O'Leary contacted me on or about January 7, 2015 following his meeting with Officer Zera-Misgun, who was accompanied by Officers Pilot Prentice and [REDACTED] who attended for support. I recall that he had given me a heads up phone call, earlier but I do not have a record of it. I was aware, for example that he was speaking with his command staff and at roll-call and these events occurred right before the Christmas holiday.

- 3. What was your response when you heard of PO Zera-Misgun**

complaint? I indicated to the Chief that I agreed with him, the Police Chief, that this matter must be investigated under the Anti-Discrimination Policy and that although Officer Misgun did not want to reveal the names of the individuals who made the statement, we had an obligation to find out who made the statements so that we could truly investigate the matter. I reminded the Police Chief, and he was aware and agreed, that the Policy mandated an investigation even if the alleged victim indicated he/she did not want there to be such an investigation or did not want to participate in the investigation.

The Chief and I discussed, in that conversation, that Officer Misgun did not want to single people out and he did not want his name to be associated with the investigation; he was looking for education and training as a response. However, the Chief had indicated to Officer Misgun that an investigation had to be conducted. I assured the Chief that we could use as much discretion and confidentiality as possible but it is a small department and it would be difficult to control this delicate information. The Chief and I agreed that the approach would be to thank Officer Misgun for bringing this to our attention and that it was important to address the matter fully and completely.

4. When did they occur

Generally, whenever the Police Chief brings me a personnel matter that needs to be reviewed or investigated, whether a claim of discrimination, sexual harassment or misconduct, I always allow the Chief to conduct the department's internal investigation as they have very specific rules and are experienced investigators. He always keeps me apprised of who is being interviewed and the progress of the investigation, which have always been performed swiftly. The matter then gets turned over to me. I meet with the investigator and receive the investigatory report which determines whether the Police Rules and Regulations have been breached. After reviewing the report, I conduct the an investigation under the Policy Against Discrimination, Sexual Harassment and Retaliation which can be a de novo review if I feel I need to ask questions or probe areas that were not investigated by the Department. With all other departments, my office performs the entire investigation.

In this case, I was aware that the Chief was easing slowly into the investigation as Officer Misgun was more interested in Education and

Training rather than a full blown investigation. (Pilot and Misgun knew someone at Harvard who would help them put together a curriculum. The Chief encouraged them to work with their Harvard resource as well as the Department and the Department would do in-service trainings.)

The Chief had also encouraged Misgun to meet with his friend/colleague whose girlfriend had used the disparaging phrase to help preserve their friendship. Also, the Chief was encouraging Officer Misgun to identify other police officers who had made statements, etc. It is my understanding that the Chief had been working on this matter, meeting with Misgun from the moment he first made contact with the Police Chief (prior to the Jan 7th meeting). The Chief had addressed the matter at roll-call indicating that such conduct would not be condoned and he had met with his supervisors reiterating zero tolerance and reminding them of their responsibility to report such conduct if they saw or heard of it.

This investigation was going a bit slower than I would have liked but the Chief and I checked in regularly and the Chief was making, and seeing, progress in moving toward a full blown investigation. I knew from experience that once we conducted the investigation I would receive the report shortly thereafter.

I received the investigatory report from the Police Chief on February 5, 2015, which included specific allegations for me to begin the investigation.

5. Where did they occur?

The preliminary department interviews and investigation were performed in the Town's Public Safety Building, Police Department.

I began to prepare to begin the investigation but Officer Misgun went out sick and then was out sick for an extended period.

6. To your knowledge who were the officers involved?

At the time, I was aware that Officer [REDACTED] was Officer Misgun's friend whose girlfriend had used the derogatory term. I

cannot recall the name of the other Officer who had been identified as having made one of the remarks. I was aware that there were other officers to be identified and, although Officer Misgun had reported to the Chief that no supervisors had engaged in any alleged misconduct, it was an area I would have explored, as we did specific training with supervisors on their duty to report under the Anti-Discrimination Policy.

7. What is the official policy and procedures for dealing with discrimination, sexual harassment, or retaliation in the workplace. The official policy is the Policy Against Discrimination, Sexual Harassment and Retaliation (referred to as the Anti-Discrimination Policy).
8. In this instance was the policy followed if not why? The policy was followed in that the Police Chief reported the allegations to the Human Resources Department and he took immediate action to ensure the workforce, both patrol officers and supervisors, understood conduct that could be viewed as discriminatory would not be tolerated.

Also, Human Resources began the investigatory process under the Policy, with the police department caveat, as described in Question 4. I recognized the investigation was not proceeding swiftly but I respected the Chief's belief that Officer Zerai-Misgun was a promising police officer and he wanted to gain his trust and work within the workforce and with his colleagues before the full-blown investigation began. I received a report from the Chief on or about February 5, 2015. However, I did not begin my full investigation as Officer Zerai-Misgun unexpectedly called out sick and was hospitalized with a grave condition.

Officer Zerai-Misgun was new and did not have a lot of accrued time so we, the Police Chief and my office, switched from investigation mode to creating a sick leave bank and putting him on FMLA to preserve his health care coverage and to ensure there was no interruption in his pay status. As it was not clear whether he would

fully recover or whether he would recover quickly, we also discussed whether there was an opportunity for Officer Misgun to return to work in a modified duty position in training where he could work in putting the diversity/curriculum together with the Training Division. There were union issues involved and other issues which were not fully vetted but, in the end, Officer Misgun made a great recovery and eventually returned to work in August 2015.

While Officer Misgun was out on the extended medical leave, I would periodically check in with the Police Chief regarding the training and whether Officer Pilot and [REDACTED] had met with their Harvard contact. At some point, late spring/early summer, the Chief indicated that Officer Pilot indicated that it was too much work and the Chief indicated that if it was okay with Officer Pilot, he would move forward with the training he had been setting up. He explained the training to Officer Pilot and Officer Pilot indicated it "sounded good."

9. Was there an investigation by the Police Department, if so when
Yes, the Police did a preliminary internal investigation which resulted in a report to me on February 5, 2015, along with the preliminary work on reiterating the issue of zero tolerance under the Anti-Discrimination Policy.
10. Was there an investigation by the Human Resource Department? If so when
See answer to and Questions 4 and 8. The investigation was not completed. Officer Zerai-Misgun went on an extended sick leave, returning in August 2015. Upon his return, the Police Chief relayed to me that Officer Zerai-Misgun had indicated that he was happy to be back to work and healthy and that he did not want to pursue his complaint. In retrospect, at that time, I should have completed the investigation, even if Zerai-Misgun indicated that he did not to pursue it. The policy provides,
"Therefore all complaints and reports of alleged discrimination, sexual harassment and/ or retaliation will be investigated by the Town. Depending on the allegations and circumstances, the Town

may need to investigate a complaint even where a complainant asks the Town not to do so.

11. **What was the result of these investigations?

As a result of the Police's initial internal investigation, the Police Chief immediately (Dec 2014) described to Officers Zerai-Misgun, Pilot and [REDACTED] that he had planned certain training regarding "Implicit Biases". I believe he delayed the training for a while as Pilot and Misgun expressed an interest in being involved in expanded diversity training and they were contacting resources at Harvard. When that training did not move forward the Chief put the implicit biases back on the training schedule (March 2106).

Pending the current investigation (2015/2016) of the expanded 2014 matter, the Police Chief has undertaken a review of the "climate" of the police department. The Chief also brought in an expert to interview minority (race and gender) officers as well as some Caucasian regarding the climate of inclusion in the Police Department. He also put directives out to all supervisors and reminded personnel that discrimination will not be tolerated in the police department (in 2014 and 1015/2016). The Chief will have more specific details.

The Police Chief has also sought advice of and kept abreast both the directors of the Human Resources Office and the Diversity, Inclusion and Community Relations Office of each corrective step that he has taken.

12. To your knowledge were there any witnesses?

Officer [REDACTED] was a potential witness to the statement made by his girlfriend. I believe Officer [REDACTED] has been identified as a witness to "eyes open" statement.

13. Have you ever had the opportunity to talk with PO Zerai-Misgun?

No I have not. In the first instance he went out sick and, as I described above, he was not interviewed in August 2015 as I did not continue that investigation. I have not reached out to him for purposes of this investigation as the investigation was being performed by an outside investigator.

14. Do you know of any other incidents or allegations of discrimination, sexual harassment or retaliation within the Brookline Police Department.

We did a complicated paramour sexual harassment investigation in the police department in 2011 (dispatchers claiming that a fellow dispatcher was getting preferential treatment because she was involved with a sergeant).

15. The Discrimination, Sexual Harassment and Retaliation policy was established in 2013, what type of training was associated with this policy for police officers, town employees.

The policy was revised in 2013 to accommodate changes in the law (gender identity) and changes in staff (██████████ became the DO for the Town). The original policy was drafted in 2010 and distributed in early 2011. When it was first implemented the MCAD, Training group came in and performed a Supervisor Training for all our supervisors and regular training for all other employees. (2010)

16. Is this training conducted on an ongoing basis? If so, how often does the training occur? Formerly we "trained" mostly through distribution of policies. In 2010, we started doing more regular training. Our goal is once every three years. We did 100% of employees in 2010 and about 50% in 2014/15. We have also trained in the fire academy classes. We are exploring other ways of training more often and more conveniently.

17. Who is responsible for delivering the training. We have used a variety of trainers beginning with the MCAD Trainers. Members of our Human Resources have gone through the MCAD training programs and do the training but we are actively looking for more training resources so we can do more training on a more consistent basis.

Lieutenant [REDACTED] Interview:

I informed Lt. [REDACTED] the reason for the interview was to conduct an independent investigation of the allegations of ongoing racial discrimination. I also reiterated that I was hired by the Town of Brookline to conduct 4 independent investigations two of which involved allegations of discrimination and work place safety regarding statements by Officer Zerai-Misgun made to Police Chief Dan O'Leary.

- I. I stated to Lieutenant [REDACTED] that Officer Zerai-Misgun indicated that one evening he was assigned to an unmarked Brookline Police vehicle, and an off duty officer (**Lieutenant [REDACTED]**) crossed in front of his unmarked police vehicle and stated "What the fuck! Who would put a black man behind one of these?"
- II. Lieutenant [REDACTED] indicated that he had not been made aware that he was involved in any such incident until his name was mentioned in the most recent allegations in 2016 by Officer Zerai-Misgun.
- III. Lieutenant [REDACTED] indicated that he does not recall the incident and absolutely would not have made those statements.
- IV. Lieutenant [REDACTED] indicated that he thought Officer Zerai-Misgun was a very good Police Officer and showed sufficient progress in the division to assign him to an unmarked vehicle.
- V. Lieutenant [REDACTED] stated, that Officer Zerai-Misgun was in his unit and in fact he (Lt. [REDACTED]) was the individual that had assigned him (officer Zerai-Misgun) to the vehicle. Thus why would he make a statement such "Who would put a black man behind one of these?"
- VI. Lieutenant [REDACTED] stated once again "he absolutely denies having made these remarks."

Regarding a racial comment towards Officer Zerai-Misgun in the Parking lot of the Public Safety building 350 Washington Street Brookline Massachusetts

Officer [REDACTED] indicated he was providing training for a recently graduated, PO [REDACTED], from the policy academy. He was assigned PO [REDACTED] to provide street training; as such he was riding in the Brookline Police Cruiser the night of December 4, 2015. At approximately 11:00 PM. They, (Officer [REDACTED] and Officer [REDACTED]) arrived at the Public Safety Building parking lot, Officer [REDACTED] indicated he was backing the police cruiser up in the parking lot of the rear of the Public Safety building when officer Zerai-Misgun appeared behind the Police Cruiser. Officer Zerai-Misgun approached the vehicle and he and Officer [REDACTED] had a light conversation. After both officers engaged in the conversation for a few minutes Officer Zerai-Misgun indicated he needed to leave to attend roll call and left the side of the vehicle going towards the public safety building. As Officer Zerai-Misgun was walking towards the Public Safety Building, Officer [REDACTED] recalls saying something but does not quite remember exactly what he said, but recalls whatever it was, it was not said in a malicious manner. Officer Zerai-Misgun turned around and returned to the Police Cruiser and re-engaged with Officer [REDACTED] in a light hearted manner. After which Officer Zerai-Misgun re-stated he really needed to get inside and report for Roll Call.

Officer [REDACTED] stated he did not think much of the incident because, they, Officer Zerai-Misgun and he were friends. It was only in January of 2015 when he heard that Chief O'Leary had received a complaint relative to the incident and had spoken with the Command staff about the incident expressing his disappointment relative to the use of this language and it would not be tolerated.

Officer [REDACTED] Interview:

Interview: Officer [REDACTED] Interview

Attendance: Officer [REDACTED], Reginald Nunnally, Attorney Shapiro, And

[REDACTED]

Officer [REDACTED] also indicated he was not aware of any other incidences involving complaints of racial intolerance, sexual harassment or retaliation within the department other than the complaints made by the two officers that made the complaints.

Officer [REDACTED] was aware of and had received the Policy Against Discrimination, Sexual Harassment and Retaliation. Officer [REDACTED] indicated he had reviewed the policy with the Human Services Department as part of the training but there has been no training since. He also indicated that he receives a copy of the policy on an annual basis via mail from the Human Resource Department

Officer [REDACTED] interview:

Interview: Officer [REDACTED] Interview

Attendance: Officer [REDACTED], Reginald Nunnally

Officer [REDACTED] Statement relative to the complaint lodged against Officer [REDACTED]

Regarding a racial comments towards Officer Zerai-Misgun in the Parking lot of the Public Safety building 350 Washington Street Brookline Massachusetts

Officer [REDACTED] indicated he recently had graduated from the police academy and was assigned with Officer [REDACTED] for street training as such he was riding in the Brookline Police Cruiser the night of question. They, (Officer [REDACTED] and Officer [REDACTED]) arrived at the Public Safety Building parking lot in the evening, as Officer [REDACTED] was backing the police cruiser up, officer Zerai-Misgun appeared behind the Police Cruiser. Officer Zerai-Misgun approached the vehicle and he and Officer [REDACTED] had a casual, light hearted conversation. After both officers engaged in the conversation for a few minutes Officer Zerai-Misgun indicated he needed to leave to attend roll call and left the side of the vehicle. As Officer Zerai-Misgun was leaving the side of the vehicle and going towards the Public Safety Building, Officer [REDACTED] said to Officer [REDACTED], in a joking manner "watch this" and said to Officer Zerai-Misgun, "the next time open your eyes so I can see you" Officer Zerai-Misgun turned around and returned to the Police Cruiser and re-engaged with Officer [REDACTED] in a joking manner for a brief moment. After which Officer Zerai-Misgun re-stated he really needed to get inside and report for Roll Call.

Officer [REDACTED] stated he did not think much of the incident because, they, Officer Zerai-Misgun and Officer [REDACTED] appeared to be friends. It was only in January of 2015 when he heard that Chief O'Leary had received a complaint relative to the incident and had spoken with the Command staff about the incident expressing his disappointment relative to the use of this type of language and this type of language would not be tolerated.

Officer [REDACTED] was aware of and had received the Policy Against Discrimination, Sexual Harassment and Retaliation. Officer [REDACTED] indicated he had reviewed the policy with the Human Services Department as part of his orientation but there has been no training since he initially was on boarded with the Brookline Police Department, he also indicated that he

receives a copy of the policy on an annual basis via mail from the Human Resource Department

Officer [REDACTED] also indicated he was not aware of any other incidences involving complaints of racial intolerance, sexual harassment or retaliation within the department other than the complaints by the two officers that made the complaints currently being investigated

Officer [REDACTED] also indicated that he and Officer [REDACTED] had become very good friends during his short period of time being on the police force.

Summary and Findings

- ✓ Officer Zerai-Misgun stated that he attended a graduation party from the Police Academy when a Brookline Police recruit's ([REDACTED]) female friend called him a nigger while celebrating and having drinks at a bar.

Finding - After interviewing Officer [REDACTED] (See Exhibit 3) and Officer Zerai-Misgun (Exhibit 1). I was not able to, according to Section X of the Discrimination, Sexual harassment and Retaliation Policy for the Town of Brookline, determine that the question of whether the facts of the alleged course of conduct constituted a violation of this Policy. The complainant allegations were made against a non Town of Brookline employee nor was the alleged incident on Town property. Employees of the Town of Brookline cannot be held responsible for conduct of non Brookline employees adverse to Town of Brookline Policies against Discrimination, Sexual Harassment or Retaliation

- ✓ Officer Zerai-Misgun stated he had worn a hooded sweatshirt, white officers (No names disclosed) (Exhibit 1) referred to him as an FI (Field Investigator) stipulating that the white officers would record identifying information because they consider him a suspicious person.

Finding - The Town protects the confidentiality of allegations and of the investigation and resolution to the extent possible. I conducted investigations relative to Discrimination, Sexual Harassment or Retaliation, The Town of Brookline requires that the following general information be included in a complaint or report:

- name of the alleged victim(s) and offender(s);
- detailed description of the alleged offending conduct;
- date(s) of the alleged offending conduct; and
- name(s) and any known contact information of any witness(es).

Names of officers accused of the allegations were not disclosed therefore there were no officers interviewed and consequently, according to Section X of the Discrimination, Sexual Harassment and Retaliation Policy for the

Town of Brookline, determined that the question of whether the facts of the alleged course of conduct constituted a violation of this Policy. The finding was inconclusive.

- ✓ Several officers were discussing the college education incentive program, one of the officers (**No names disclosed**) (exhibit 1) made a comment highlighting that Officer Zerai-Misgun did not have a college degree but has a GED, versus stating that he was graduate of Brookline High school. Officer Zerai-Misgun stated he understood this to mean he was less qualified for the position as a police officer because he was Black. Officer Zerai-Misgun indicated he is not a college graduate but has completed some college courses but not enough to achieve a degree at the time these remarks were being uttered.

Finding: Names of officers accused of the allegations were not disclosed therefore there were no officers interviewed and consequently, according to Section X of the Discrimination, Sexual Harassment and Retaliation Policy for the Town of Brookline, determined that the question of whether the facts of the alleged course of conduct constituted a violation of this Policy. The finding was inconclusive.

- ✓ [REDACTED] was backing up a Brookline Police cruiser in the rear of the Public Safety building located at 350 Washington St. Brookline Mass, Officer Zerai-Misgun walked from behind the police cruiser and Officer [REDACTED], who was driving the vehicle stated to him (Officer Zerai-Misgun "I didn't see you, you must have had your eye's closed" or words to that effect. Officer Zerai-Misgun indicated that **Officer [REDACTED]**, (See Exhibit 15) a Black police officer, in the vehicle had witnessed the incident. In interviewing Officer [REDACTED] (Exhibit) he confirmed that Officer [REDACTED] did in fact make the statement but he (Officer [REDACTED]) said it in a joking manner and Officer Zerai-Misgun did not appear to be offended by the statement (See Exhibit 15) In a subsequent interview with Officer [REDACTED] he (Officer [REDACTED]) recalls saying something but was not quite clear as to what he said. But regardless of what he said, he stated "he said it in

a jokingly manner to someone he considered to be a friend and did not intentionally say, what ever he said, to be demeaning.”(Exhibit 4)

Finding: Section III of the Discrimination, Sexual Harassment and Retaliation Policy Prohibits Discriminatory Harassment, Hostile treatment that is based on, motivated by or expresses a negative attitude toward a person’s membership in a protected class or protected characteristic and that creates an intimidating, hostile, or offensive work environment is strictly prohibited by this policy. Such prohibited hostile treatment may include, but is not limited to:

- use of epithets, slurs or nicknames that refer to a person’s protected characteristic such as, but not limited to, race or sexual orientation,
- **jokes that have the purpose or effect of demeaning or making fun of a person based on a protected characteristic,**
- graffiti or other visual messages or displays that degrade a person based on a protected characteristic, and
- any other verbal or non-verbal conduct that has the purpose or effect of creating a hostile work environment based on a person’s protected characteristic.

Based on interviews with Officer [REDACTED], Officer [REDACTED] and Officer Zerai-Misgun I find that there is probable cause that the allegations were factually based.

- ✓ Officer Zerai-Misgun periodically was assigned to an unmarked Brookline Police vehicle, on one occasion an off duty officer (Lieutenant [REDACTED]) crossed in front of his unmarked vehicle and stated “What the fuck! Who would put a black man behind one of these?” (unmarked police cruiser.) Officer Zerai-Misgun indicated Lt. [REDACTED] statement was witnessed by other Police Officers who were attending a training at Boston University. The Training included Officers from all over the country (no names were disclosed) (Exhibit 1). I was not able to interview any of these officers from out of state

Finding: Based on the interview with Lieutenant [REDACTED] (Exhibit 5) and Officer Zerai-Misgun (Exhibit 1) there were conflicting stories, Lieutenant [REDACTED] states he does not recall the incident and absolutely denies having said that remark. He stated that in fact he was the individual that had

assigned officer Zerai-Misgun to the vehicle See Exhibit 5. After interviewing Lieutenant [REDACTED] and Officer Zerai-Misgun I was not able to, according to Section X of the Discrimination, Sexual harassment and Retaliation Policy for the Town of Brookline, determine that the question of whether the facts of the alleged course of conduct constituted a violation of this Policy. I find allegations of discrimination related to this incident inconclusive.

- ✓ White officers (**No Names Disclosed**) allegedly taunted Officer Zerai-Misgun by providing officer Zerai-Misgun a call sign of 1-Black-70, of which Officer Zerai-Misgun felt clearly was referencing (Exhibit 1) Officer Zerai-Misgun and his Race as oppose to 1-Bravo-70. A careful review of the logs provided by the Brookline Police Department does not indicate any such call sign (**See Exhibit 6 call log**).

Finding: Names of officers accused of the allegations were not disclosed therefore there were no officers interviewed and consequently, according to Section X of the Discrimination, Sexual harassment and Retaliation Policy for the Town of Brookline, determined that the question of whether the facts of the alleged course of conduct constituted a violation of this Policy. The finding was inconclusive.

Conclusions:

The investigation regarding allegations I, II, III, V and VI brought forth by Officer Zerai-Misgun does not mean they did not occur it simply means that there were no facts of the alleged conduct and without facts the complaints did not constitute a violation of the Discrimination, Sexual Harassment and Retaliation Policy.

The investigation regarding allegation IV brought forth by Officer Zerai-Misgun was witnessed by Officer [REDACTED] and not denied by Officer [REDACTED]. Although Officer [REDACTED] indicated that he was joking around.

Section III of the Discrimination, Sexual Harassment and Retaliation Policy Prohibits Discriminatory Harassment, Hostile treatment that is based on, motivated by or expresses a negative attitude toward a person's membership

in a protected class or protected characteristic and that creates an intimidating, hostile, or offensive work environment is strictly prohibited by this policy. Such prohibited hostile treatment may include, but is not limited to:

- use of epithets, slurs or nicknames that refer to a person's protected characteristic such as, but not limited to, race or sexual orientation,
- **jokes that have the purpose or effect of demeaning or making fun of a person based on a protected characteristic,**
- graffiti or other visual messages or displays that degrade a person based on a protected characteristic, and
- any other verbal or non-verbal conduct that has the purpose or effect of creating a hostile work environment based on a person's protected characteristic.

Therefore, there is a reasonableness that this allegation has probable cause.

Recommendations:

1. Institute an annual training of all Town of Brookline employees relative to the Discrimination, Sexual Harassment and Retaliation Policy on an annual basis. The training should include an affidavit that each employee has taken and understands the Discrimination, Sexual Harassment and Retaliation Policy and the consequences for not complying with the policy.

2. Designed a training program to target conflicts in the values of all stakeholders relative to the factors that contribute to the organization's ability to move forward. The designed is to begin and continue the process, respectively; of identifying the role(s) department leadership must play in diminishing the gaps between those values and the realities they face for purposes of minimizing the re-occurrences of these conflicts In the future, which inhibit organizational responsiveness to institutional development and capacity building.

3. Identify the appropriate "public" to continue this conversation about factors contributing to the gap from their perspectives.

4. Develop a monitoring process to track the effectiveness of the results for a minimum of a five year period.

Potential individuals that have the requisite credentials to provide guidance and develop training for the above referenced recommendations

Potential individuals that have the requisite credentials to provide guidance and develop training for the above referenced recommendations

Dr. Theodore Josiha Haig JD, Ed. D

Formally managed the firm and was a partner in the consortium. The American Consortium Center for Training (ACCT) is a consortium specializing in both public and private sector institutional capacity building. The Agency is structured as a proactive and intervention 'network' designed to be accommodating, based on the assessed needs of our public and private sector clients in the international community, in direct proportion to their acquiring the performance results they are seeking to obtain. Our International and Qatar based consultants are experienced institutional leaders, planners and evaluators with an emphasis on strategic planning and are retained for short and/or long term intervention. Research designs, operation frameworks, evaluation designs and the KIVA, a human technology used for collecting and analyzing data, are the instruments used, when appropriate, while working with our clients.

Mr. Darnell Williams, President/CEO Urban League Eastern Massachusetts

Darnell L. Williams has been an active practitioner within the Diversity & Inclusion field for 20 years. He builds upon his organization development and adult learning academic and professional background. His recent participation in racial unrest, community relations, police engagement, racial profiling has placed him at the center of these major discussions within Boston and greater New England. He is a trusted resource and offers valid insights to the issues at hand confronting cities and towns.

Attorney David Bowman, Partner in Law Firm Specializing in Race Issues

June 1, 2016

Ms. Sandra Debow
Director
Human Resources Office
333 Washington St.
Brookline Massachusetts 02445

Re: Investigative Report Clarification

Dear Ms. Debow,

I a point of clarification the underpinning and rationale for coming to my conclusion of Officer Pilot's allegations of discrimination was not based on Sergeant [REDACTED] voice patterns, it is quite possible that Sergeant [REDACTED] stated the word Naked and Officer Pilot heard the word "Nigger". It is absolutely impossible to determine what was actually said. Both men were adamant at what was said and what was heard. In my opinion it came down to one man's word against the word of another man. According to the Town's policy, allegations must be factually based to be conclusive. I could not find any facts to substantiate that Sergeant [REDACTED] was in violation of the Town of Brookline's Antidiscrimination, Sexual Harassment or retaliation Policy, as stated in Officer Pilot's complaint of discrimination. But because Sergeant [REDACTED] admitted (in his own words) to Chief O'Leary, Deputy Superintendent Lipson and myself with Attorney Shapiro and Officer [REDACTED] as witnesses, could be construed as a violation of the Antidiscrimination, Sexual Harassment or retaliation Policy as it relates to Sexual Harassment as outlined in the policy.

My conclusion was based on factual evidence or the lack of factual evidence.

- Fact: Officer Pilot indicated he had not previously heard Sergeant [REDACTED] say any racial remarks
- Fact: Officer Pilot and Sergeant [REDACTED] indicated that they were both friendly towards each other in the past.
- Fact: Officer Pilot was inside his vehicle, while Sergeant [REDACTED] was standing on the outside passenger side of Officer Pilot vehicle.
- Fact: There was work being conducted by Verizon employees [REDACTED] and [REDACTED] and indicated that their Verizon truck was running and the truck was very loud.
- Fact: Officer [REDACTED] and Sergeant [REDACTED] have good records within the Brookline Police Department
- Fact: A video was obtained from Sullivan Tire located at 950 Commonwealth Ave. The video shows the intersection of Commonwealth Ave. and Pleasant St. The video shows Sgt. [REDACTED] and the Verizon crew on Pleasant St. at Commonwealth Ave. At the 37:39 mark of the video a

marked cruiser traveled in bound on Commonwealth Ave. in the right travel lane pulled slightly to the right at the intersection of Pleasant St. and came to a stop. Sgt. [REDACTED] approached the passenger side window. The video shows that Sgt. [REDACTED] walked over to the cruiser window and leaned towards the window. Sgt. [REDACTED] subsequently stood up and backed away from the vehicle. The cruiser moved slowly forward and paused for a pedestrian in the cross walk before driving away. Sgt. [REDACTED] then walked back to toward the work area and resumed monitoring traffic. The footage is consistent with the broad set of circumstances described by both Officer Pilot and Sgt. [REDACTED] but does not provide any direct evidence of what was said at the window. The video appears to confirm that the Verizon workers were not in a position to hear what was being said.

- Fact: Sergeant [REDACTED] admitted to saying words to this effect “Go to the side of the curb and do some Naked Jumping Jacks and I will put a good word in for you for the assignment you are interviewing for”
- Fact: The Anti Discrimination, Sexual Harassment and Retaliation Policy stipulates that it is against policy to utilize language such as this, even in a jokingly manner. (See reference below)

Based on this series of facts there is nothing that can be factually established to warrant a violation of the Anti Discrimination, Sexual Harassment and Retaliation as alleged by Officer Pilot. Conversely what was actually admitted to be said during this encounter appears to have probable cause to be in violation of Section IV Sexual Harassment, of the Anti Discrimination, Sexual Harassment and Retaliation Policy for the Town of Brookline.

Section IV Sexual Harassment:

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any one of the three following criteria is met:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, participation in a Town program, service or activity, or receipt of a Town benefit;

1. (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or a decision regarding an individual's participation in a Town program, Service or activity or receipt of a Town benefit; OR
2. (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, participation in a Town program, service or activity, or receipt of a Town benefit, or creating an intimidating, hostile or offensive work environment.

Sexual harassment may include conduct by men toward women, **men toward men**, women toward men, women toward women, employees toward supervisors, supervisors

toward employees, employees toward citizens or vendors, and citizens or vendors toward employees.

Sexual harassment may include, but is not limited to:

- Sexual advances or propositions or requests for sexual favors;
- Preferential treatment or promises of preferential treatment for submitting to sexual conduct, or less favorable treatment or threats of less favorable treatment for not submitting to sexual conduct;
- Physical attacks of a sexual nature, including rape, battery, and molestation, and attempts to do so;
- Other unwelcome touching of a personal nature, including but not limited to, hugging, kissing, pinching, patting, grabbing, brushing against, and poking;
- Sexual or obscene gestures, noises, whistling, remarks, suggestions, innuendo or jokes;
- Comments or questions enquiring about a person's body or sexual abilities, deficiencies or experience;
- Staring or leering;
- Displaying (including, but not limited to, on walls, lockers, and computer screens), or by the reading or viewing, of sexually-suggestive or pornographic objects, pictures or other graphic or written material (materials being used in official police department investigations are exempt from this prohibition provided that investigating officers use reasonable care to shield the otherwise restricted material from all personnel other than those with a legitimate need to view such materials as part of his/her job responsibilities);
- Disseminating sexually-suggestive or pornographic graphic or written material by voice mail, email, or websites (with an exception for official police department investigations, as provided above);

Preference to employees because they are involved in a consensual sexual relationship or less favorable treatment of same because they are not involved in consensual sexual activity; and any other verbal or non-verbal conduct of a sexual nature that has the purpose or effect of subjecting a person to an intimidating, hostile or offensive environment.

!

2. We understand that you consulted a linguist in making your determination as to what Sergeant [REDACTED] may have said. What did you learn about [REDACTED] voice patterns from the linguist? Was that knowledge relevant to your finding regarding what Sergeant [REDACTED] may have said?

In my interview with Sergeant [REDACTED], I asked Sergeant [REDACTED] to say in his own words what he said to Officer Pilot. When Sergeant [REDACTED] made his statement I initially thought he used the "N" word, and I asked him to repeat his statement, he repeated his statement and once again I thought I heard him say the "N" word. It was on the third iteration he stated at a slightly slower pace, when it became evident as to what he was attempting to say.

I did not technically consult with a linguist, as a linguist would have a difficult time diagnosing a speech impediment without performing an exam. I did discuss the issue of speech impediments with individuals that I worked with during my tenure with the city of Boston while with the Mayor Menino administration. In my experience working directly with Mayor Menino, who also had difficulty with certain words, on a number of occasions I misunderstood comments made by the mayor and did not ask for clarification. In researching speech impediments I discovered through Wikipedia the following;

Speech Classification:

Classifying speech into normal and disordered is more problematic than it first seems. By a strict classification, only 5% to 10% of the population has a completely normal manner of speaking (with respect to all parameters) and healthy voice; all others suffer from one disorder or another.

There are three different levels of classification when determining the magnitude and type of a speech disorder and the proper treatment or therapy: ^[2]

Sounds the patient can produce

- Phonemic – can be produced easily; used meaningfully and constructively
- Phonetic – produced only upon request; not used consistently, meaningfully, or constructively; not used in connected speech
- Stimulate sounds
 - Easily stimulated
 - Stimulate after demonstration and probing (i.e. with a tongue depressor)
 - Cannot produce the sound
 - Cannot be produced voluntarily
 - No production ever observed

Types of disorder

- **Apraxia of speech** may result from stroke or progressive illness, and involves inconsistent production of speech sounds and rearranging of sounds in a word ("potato" may become "topato" and next "totapo"). Production of words becomes more difficult with effort, but common phrases may sometimes be spoken spontaneously without effort.
- **Cluttering**, a speech and fluency disorder characterized primarily by a rapid rate of speech, which makes speech difficult to understand.
- **Developmental verbal dyspraxia** also known as childhood apraxia of speech.
- **Dysarthria** is a weakness or paralysis of speech muscles caused by damage to the nerves and/or brain. Dysarthria is often caused by **strokes**, **parkinsons disease**, **ALS**, head or neck injuries, surgical accident, or **cerebral palsy**.
- **Dysprosody** is the rarest neurological speech disorder. It is characterized by alterations in intensity, in the timing of utterance segments, and in rhythm, cadence, and

intonation of words. The changes to the duration, the [fundamental frequency](#), and the intensity of tonic and atonic syllables of the sentences spoken, deprive an individual's particular speech of its characteristics. The cause of dysprosody is usually associated with neurological pathologies such as [brain vascular accidents](#), [cranioencephalic traumatisms](#), and [brain tumors](#).^[3]

- [Muteness](#) is complete inability to speak.
- [Speech sound disorders](#) involve difficulty in producing specific speech sounds (most often certain consonants, such as /s/ or /r/), and are subdivided into [articulation disorders](#) (also called phonetic disorders) and [phonemic disorders](#). Articulation disorders are characterized by difficulty learning to produce sounds physically. Phonemic disorders are characterized by difficulty in learning the sound distinctions of a language, so that one sound may be used in place of many. However, it is not uncommon for a single person to have a mixed speech sound disorder with both phonemic and phonetic components.
- [Stuttering](#) affects approximately 1% of the adult population.^[1]
- [Voice disorders](#) are impairments, often physical, that involve the function of the [larynx](#) or vocal resonance.

Causes:

In most cases the cause is unknown. However, there are various known causes of speech impediments, such as "[hearing loss](#), [neurological disorders](#), [brain injury](#), [intellectual disability](#), [drug abuse](#), physical impairments such as [Cleft lip and palate](#), and vocal abuse or misuse."^[4]

Language disorders;

[Language disorders](#) are usually considered distinct from speech disorders, even though they are often used synonymously.

Speech disorders refer to problems in producing the sounds of speech or with the quality of voice, where language disorders are usually an impairment of either understanding words or being able to use words and does not have to do with speech production.^[7]

References

- 1 ^ [Jump up to:](#) ^{a b} Kennison, Shelia M. (2014). *Introduction to language development*. Los Angeles: SAGE. ISBN 978-1-4129-9606-8. OCLC 830837502.
- 2 [Jump up](#) ^a Deputy, Paul; *Human Communication Disorders*; March 10, 2008
- 3 [Jump up](#) ^a Pinto JA, Corso RJ, Guilherme AC, Pinho SR, Nóbrega Mde O (March 2004). "Dysprosody nonassociated with neurological diseases--a case report". *J Voice* **18** (1): 90–6. doi:10.1016/j.jvoice.2003.07.005. PMID 15070228.
- 4 ^ [Jump up to:](#) ^{a b} "Disability Info: Speech and Language Disorders Fact Sheet (FS11)." National Dissemination Center for Children with Disabilities. <http://www.nichcy.org/pubs/factshe/fs11.txt.htm>
- 5 [Jump up](#) ^a "Speech Defect." Encyclopedia.com. <http://www.encyclopedia.com/doc/1E1-speechde.html>

- 6 **Jump up** □^ Scott G. G.; O'Donnell P. J.; Sereno S. C. (2012). "Emotion words affect eye fixations during reading". *Journal of Experimental Psychology: Learning, Memory, and Cognition*. doi:10.1037/a0027209.

Jump up □^ "NICHCY's New Home". *nichcy.org*.

3. *You mentioned to Selectmen [REDACTED] and [REDACTED] that there was evidence of a long-standing joke in the Police Department concerning "naked jumping jacks" that might have played a part in Sergeant [REDACTED] comment. Is the existence of such a joke pertinent to your conclusions?*

In interviewing Police Chief Dan O'Leary and Sergeant [REDACTED] they both mentioned to me that there appears to have been a joke relative to "Naked Jumping Jacks" at the academy. The Joke was supposed to be indicative that recruits would do whatever was necessary to successfully get through the academy process. The joke was unconfirmed. The existence of a confirmed or unconfirmed joke at the academy had no relevance to the final conclusion of the investigation. The line of questioning was an attempt to understand the rationale for the statement. It was more important for me to understand what was said or not said and find any factual evidence that it did or did not occur. I am of the opinion that the statement, even said in a joking manner, was a violation of the Anti Discrimination, Sexual Harassment and Retaliation Policy for the Town of Brookline specifically as it relates to sexual harassment.

4. *Selectmen [REDACTED] and [REDACTED] recall that you indicated that you were aware of actions taken by Chief O'Leary after Officer Zerai-Misgun and several other officers first made complaints in December of 2014. Did those steps and the effect of such steps factor in to your conclusions and recommendations?*

During my initial discussion and subsequent interviews with Police Chief Dan O'Leary he indicated that when Officer Zerai Mis-Gun made his complaint of discrimination in December of 2014, the police chief showed leadership in not denying there was a problem but attempted to address the complaints by instituting what he perceived to be a solution to a potential problem within the Brookline Police department. The solution expressed was to institute a training program that Officer Mis-Gun and Officer Pilot would have major input in addressing sensitivities regarding race relations within the police department.

The fact that Chief O'Leary was willing to implement and followed through with the implementation of a training program had no way in influencing my conclusions in this investigation. I personally thought it showed good leadership from Chief O'Leary's perspective to address an issue that is so prevalent throughout American society. Race and Racism exist in our country, to work on eradicating this issue it is

essential to have ongoing discussions and training to continuously acknowledge that it exist and to understand the effects it has on people of color.

If you or any of the selectman have further questions as it relates to the investigative reports or need further clarification for any particular segment of the reports , please do not hesitate in contacting me.

Sincerely

Reginald A. Nunnally
Consultant

* Please note for the record another point of clarification. In each of the investigative reports for Officer Pilot and Officer Zerai Mis-gun I referenced a definition of Institutionalized racism without properly referencing Wikipedia. I would like to amend the report by insuring that I properly reference the definition by referencing the Wikipedia dictionary for defining institutionalized racism.

^[1] This report has been redacted to omit private/personnel record information considered to be exempt from disclosure under the public records law. The report's exhibits are omitted due to their volume, however copies are available for inspection and copying in the Office of Town Counsel.

**Investigative Report
for
Town of Brookline
Regarding
Discrimination & Workplace Safety Complaints**

**Investigative Report
for
Town of Brookline
Regarding
Discrimination & Workplace Safety Complaints**

**By
Officer Estifanos Zerai-Misgun
and
Officer Prentice Pilot**

The Town of Brookline has requested my services conduct an extensive investigation as to discrimination and Work Place Safety allegations made by two Patrol Officer of the Brookline Police Department, Patrol Officer Estafanos Zerai-Misgun and Patrol Officer Prentice Pilot.

The complaints by Officer Zerai-Misgun and Officer Pilot area specifically related to violations of the Discrimination, Sexual Harassment and Retaliation Policy and the Work Place Safety Policy of the Town of Brookline.

Complaint - Officer Zerai-Misgun alleged that Lieutenant [REDACTED], Officer [REDACTED], and Officer [REDACTED] utilized racial derogatory statements or were aware of racial derogatory statements to demean him as an officer and human being in the Brookline Police Department.

Complaint - Officer Pilot alleged that Sergeant [REDACTED], utilized racial derogatory statements to demean him as an officer and human being in the Brookline Police Department.

In conducting the investigation I reviewed hundreds of pages of documents pertaining to these allegations. The following is a complete list of the documents that were reviewed;

- Conclusion to the internal Affairs Investigation relative to Officer Pilot

- Final Internal Affairs Report for Officer Zerai-Misgun incidents dating back to December of 2014
- Report from Commissioner O'Leary relative to both cases (Officer Pilot and Officer Zerai-Misgun
- Department Actions from December 7, 2015 December 16, 2015
- Report Conducted by Superintendent Andrew Lipson
- All official forms filed by Officer Prentice Pilot and Officer Zerai-Misgun
- All e-mails and letters relative to this investigation
- Request for leave of absence associated with these complaints
- Written Statements made by the Diversity and Inclusion Department for the Town of Brookline at the Community meeting on January 5, 2016
- Transcript of the Board of Selectman Meeting held on January 5, 2016
- Any Prior Complaints of discrimination, harassment or violence reports for the past five years for Sergeant [REDACTED], Officer [REDACTED], Officer [REDACTED] and Lieutenant [REDACTED]
- Reports and or communication provide to and from the Town of Brookline Board of Selectman
- Copies of all certified mail to Officer Prentice Pilot and Officer Zerai-Misgun relative to the Town of Brookline's Discrimination, Sexual Harassment and Retaliation Policy and Work Place Safety Policy
- Videos of the Verizon paid detail on December 4, 2015
- Interview reports from the Verizon Personnel at the location of the paid detail
- Miscellaneous Documents from;
 - a. Letters to Officers Zerai-Misgun and Officer Pilot
 - b. December 18, 2015 Emails to all Police personnel from Chief O'Leary
 - c. Letter to the Editor of the Brookline TAB from Chief O'Leary published January 7, 2016
 - d. January 7, 2016 Letter from Brookline Police Union, Executive Board to union members
 - e. Summary of in service police training
 - f. January 14, 2016, WGBH Interview transcript
- Miscellaneous Reports regarding various alleged allegations and assignment request for Officer Zerai-Misgun
- Miscellaneous Reports regarding various alleged allegations and assignment request for Officer Pilot
- Federal Lawsuit

- Massachusetts Commission Against Discrimination
- The Town of Brookline Position Statement as related to the complaints made by Officer Zerai-Misgun and Officer Pilot.

In addition to the review of these documents I have interviewed the following individuals:

1. Lieutenant [REDACTED]
2. Selectperson [REDACTED]
3. Officer [REDACTED]
4. Officer [REDACTED]
5. [REDACTED]
6. Selectman [REDACTED]
7. Officer [REDACTED]
8. Ms. Sandra Debow Huang, Director of Human Resource Department
9. Sergeant [REDACTED]
10. Deputy Superintendant Andrew Lipson
11. Officer [REDACTED]
12. Sergeant [REDACTED]
13. Officer Estifanos Zerai-Misgun
14. Superintendent Mark Morgan
15. Police Chief Daniel O'Leary
16. Officer Prentice Pilot
17. Officer [REDACTED]

I had brief discussions with Hillary Schwab, Attorney representing Officer Pilot and Officer Zerai-Misgun for the discrimination complaints filed with the Massachusetts Commission Against Discrimination, and [REDACTED] regarding communications with Selectman [REDACTED].

The summary, findings and conclusions can be found on pages 24 – 27 for the investigative report relative to Officer Prentice Pilot and pages 32 – 35 for the investigative report relative to Officer Zerai-Misgun.

Respectfully Submitted

Reginald Nunnally

Investigation

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Complaints:

Racism and Racial Discrimination within the Brookline Police Department located at 350 Washington St. Brookline Massachusetts.

Officer Pilot verbally alleged that Sergeant [REDACTED] utilized racial derogatory statements to demean him as an officer and human being in the Brookline Police Department. Officer Pilot's Attorney Hillary Schwab (**see exhibit A**) contacted me and requested his statement as related to MCAD complaint be his, (Officer Pilot), Official statement, (**see Exhibit A1**)

These alleged complaints would be in violation of the town of Brookline's Discrimination, Sexual Harassment and Workplace Safety Policy that was revised in July of 2013.

Independent Investigation Scope of Service:

The town of Brookline hired Reginald A. Nunnally as a special investigator to conduct the following scope of services as it pertains particularly to this investigation.

1. Review and comment as appropriate on all pertinent Town policies and procedures, including the Policy Against Discrimination, Sexual Harassment and Retaliation and the Workplace Safety
2. Review and investigate pursuant to the Town's Policy Against Discrimination, Sexual Harassment and Retaliation and Workplace Safety Policy any and all complaints or allegations regarding discrimination, retaliation, ostracizing and/or feeling unsafe at work and any reasons therefore brought to the Town's attention at any time by Officers Zerai-Misgun and/or Pilot by either or both of them or by any individual on their behalf, including, but not limited to, complaints made on or about December 23, 2014 and December 7, 2015 and thereafter.
3. Review the procedures that were followed by Town staff (including within the Police Department and the Human Relations Department) in connection with the foregoing 2014 and 2015 complaints for their compliance with the Town's Policy Against Discrimination, Sexual Harassment and Retaliation and with generally-accepted best practices.
4. Provide the Town Administrator with a confidential report regarding the foregoing with any recommendations for further action. (**see exhibit C**)

To get a better overall understanding of Institutionalized Racism I thought I would begin this investigation by defining it and determine if the definition aligns itself with any of the allegations.

Institutionalized Racism

Institutional racism is a form of racism expressed in the practice of social and political institutions, as distinct from racism by individuals or informal social groups. It is reflected in disparities regarding criminal justice, employment, housing, health care, political power and education, among other things. Whether implicitly or explicitly expressed, institutional racism occurs when a certain group is targeted and discriminated against based upon race.

Institutional racism can go unnoticed as it is not always explicit and can be overlooked. Institutional racism is defined as: "The collective failure of an organization to provide an appropriate and professional service to people because of their color, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behavior which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantages minority ethnic people."

The concept of institutional racism re-emerged in political discourse in the late 1990s after a long hiatus, but has remained a contested concept that has been critiqued by multiple constituencies. Institutional racism is the differential access to the goods, services, and opportunities of society. When the differential access becomes integral to institutions, it becomes common practice, making it difficult to rectify. Eventually, this racism dominates public bodies, private corporations, public and private universities, and is reinforced by the actions of conformists and newcomers. Another difficulty in reducing institutionalized racism is that there is no sole, true identifiable perpetrator. When racism is built into the institution, it emerges as the collective action of the population.

There are three major types of racism: (a) Personally mediated, (b) internalized, and (c) institutionalized.

A. Personally mediated racism includes the specific social attitudes inherent to racially prejudiced action (bigoted differential assumptions about abilities, motives, and the intentions of others according to), discrimination (the differential actions and behaviors towards others according to their race), stereotyping, commission, and omission (disrespect, suspicion, devaluation, and dehumanization).

B. Internalized racism is the acceptance, by members of the racially stigmatized

people, of negative perceptions about their own abilities and intrinsic worth, characterized by low self-esteem, and low esteem of others like them. This racism can be manifested through embracing "whiteness" (e.g. stratification by skin color in non-white communities), self-devaluation (e.g., racial slurs, nicknames, rejection of ancestral culture, etc.), and resignation, helplessness, and hopelessness (e.g., dropping out of school, failing to vote, engaging in health-risk practices, etc.). Persistent negative stereotypes fuel institutional racism, and influence interpersonal relations. Racial stereotyping contributes to patterns of racial residential segregation and redlining, and shape views about crime, crime policy, and welfare policy, especially if the contextual information is stereotype-consistent.

C. Institutional racism is distinguished from racial bigotry by the existence of institutional systemic policies, practices and economic and political structures which place minority racial and ethnic groups at a disadvantage in relation to an institution's racial or ethnic majority. One example is public school budgets in the U.S. (including local levies and bonds) and the quality of teachers, which in the are often correlated with property values: rich neighborhoods are more likely to be more 'white' and to have better teachers and more money for education, even in public schools. Restrictive housing contracts and bank lending policies have also been listed as forms of institutional racism. Other examples sometimes described as institutional racism are racial profiling by security guards and police, use of stereotyped racial caricatures, the under- and mis-representation of certain racial groups in the mass media, and race-based barriers to gainful employment and professional advancement. Additionally, differential access to goods, services, and opportunities of society can be included within the term *institutional racism*, such as unpaved streets and roads, inherited socio-economic disadvantage, and "standardized" tests (each ethnic group prepared for it differently; many are poorly prepared).

Some sociological investigators distinguish between institutional racism and "structural racism" (sometimes called structured racialization). The former focuses upon the norms and practices within an institution, the latter upon the *interactions* among institutions, interactions that produce racialized outcomes against non-white people. An important feature of structural racism is that it cannot be reduced to individual prejudice or to the single function of an institution.

Officer Pilot's Interview:

- I. I Informed Officer Pilot the reason for the interview was to conduct an independent investigation of the allegations of racial discrimination as it pertained to an incident on December 4, 2015. I also stated that I was hired by the Town of Brookline to conduct 2 independent investigations one of which involved allegations of discrimination and the other investigation was in regards to work place safety regarding statements he made to Police Chief O'Leary on December 7, 2016.
- II. I asked Officer Pilot if he had received copies of the Town of Brookline's policy on Discrimination, Sexual Harassment and Retaliation. Officer Pilot indicated he had received the Policy around the time Firefighter Gerald Alston had made his allegations of discrimination as well as an unsafe work environment.
- III. In proceeding with the interview I asked Officer Pilot to describe in his own words the incident relative to the Discrimination allegation. I also indicated to Officer Pilot that although I was also conducting an investigations regarding workplace safety, the work place safety complaint would be a separate investigation and I would arrange another interview relative to those allegations.
- IV. Officer Pilot indicated that on the morning of Friday December 4th he was working his assigned shift in uniform and in a marked Police cruiser.
- V. Officer Pilot explained that he had just finished assisting at the Devotion School evacuation drill and was traveling away from the school. He travelled on Babcock St. to Commonwealth Ave. and as he approached Pleasant St. on Commonwealth Ave. he observed Sgt. [REDACTED] in uniform working a detail.
- VI. Officer Pilot indicated that he pulled his vehicle to the right on Commonwealth Ave. adjacent to where Sgt. [REDACTED] was standing and opened his passenger side window to speak with Sgt. [REDACTED]
- VII. Officer Pilot stated that it was not unusual for them to talk briefly when they saw each other.

- VIII. Officer Pilot stated that Sgt. [REDACTED] came to the open passenger side window and stated "Why don't you pull your vehicle to the curb and give me some nigger jumping jacks and I will put in a good word for you".
- IX. Officer Pilot's recollection was clear as to the statement of "nigger jumping jacks".
- X. Officer Pilot expressed to me that he was certain that the word "nigger" was used and that he couldn't believe what he had heard.
- XI. Officer Pilot was also clear that Sgt. [REDACTED] said "and I'll put in a good word".
- XII. Officer Pilot took this to be a reference of Officer Pilot's applying for an open position within the Brookline Police Traffic Division and that Sgt. [REDACTED] would put in a good word for him getting that position.
- XIII. Officer Pilot stated that he was shocked by what was expressed to him by Sgt. [REDACTED] and did not respond. He explained that he began closing the window while driving away. He indicated that it took a moment for what he had heard to settle in.
- XIV. Officer Pilot stated that Sgt. [REDACTED] tone was not angry nor confrontational, but was a more of a matter of fact normal conversation and very much like the conversational tone he had with Sgt. [REDACTED] in the past.
- XV. In recounting this incident during the interview Officer Pilot indicated he was getting a headache.
- XVI. Officer Pilot stated that after the incident he continued with his tour of duty and did not report the incident to anyone.
- XVII. He stated that over the weekend he discussed the matter with his family and then with friends.
- XVIII. Officer Pilot indicated that he met with Chief O'Leary on December 7, 2016 and made a complaint of a racial incident involving Sergeant [REDACTED]
- XIX. Officer Pilot also informed me that he had told the Chief that he did not feel ready to come back to work and was apprehensive of how he would be received by friends of Sgt. [REDACTED] on the department once they knew about the racial slur allegations against Sgt. [REDACTED] if he were to return to work.
- XX. Officer Pilot indicated that Sgt. [REDACTED] had many friends on the Brookline Police force and he was afraid he would be singled out as a

- malcontent Black police officer and not receive the back up support necessary to confidently carry out his police duties and responsibilities.
- XXI. Officer Pilot indicated he did not feel safe coming back to work at this point and still needed time to work things out.
- XXII. Officer Pilot was placed on special assignment until the Brookline police department investigated the incident. (see exhibit J)
- XXIII. Officer Pilot hand delivered a letter from Chief O'Leary removing him from Special Assignment duty effective December 20, 2015 and ordered to returned to work December 21, 2015 (see exhibit K)
- XXIV. Officer Pilot indicated he was fearful of his safety and did not return to work.
- XXV. Officer Pilot informed me that there were no witnesses of the conversation he had with Sgt [REDACTED] on December 4, 2015.
- XXVI. Officer Pilot indicated the incident was not as evident as the incident involving Firefighter Gerald Alston where there was an actual recording of a demeaning racial slur. Officer Pilot realized that because there was no witnesses the conclusion to the case would hinge on the accused integrity versus the accusers integrity.
- XXVII. Officer Pilot indicated that many of these racial incidents are dismissed with prejudice because of lack of proof when in reality why would a Black police officer accuse a White police officer of using racial slurs with the full knowledge that there is the perception that he or she could be shunned within a paramilitary organization that fully depends on the cooperation of his or her colleagues for their ultimate safety on the job.
- XXVIII. Officer Pilot stated that he does not harbor any negative feelings towards Sgt. [REDACTED] despite the reaction of his family and friends to the racial slurs aimed at him.
- XXIX. Officer Pilot stated that he was fully cognizant of not responding to the racial slurs in a confrontational manner, he stated his personality is more emotionally relaxed, "I think before I react".
- XXX. Officer Pilot also indicated he felt Sgt. [REDACTED] and he (Officer Pilot) had been amicable in the past and had never known Sgt [REDACTED] to express himself in this manner nor expected Sgt [REDACTED] to have these racial prejudices, even in a jokingly manner.

- XXXI. Officer Pilot indicated that the incident has created a very stressful situation for him and his family, his wife was concerned whether or not the family should relocate,
- XXXII. Officer Pilot also indicated that the Chief of Police Dan O'Leary offered assistance (**see exhibit D**) either through resources within the Brookline Police Department or through the Boston Police Department
- XXXIII. Officer Pilot declined because he indicated he had his own support system and needed to talk to people that had an understanding from a Black perspective, relative to the effects of discrimination on a Black person.
- XXXIV. Deputy Superintendent Andrew Lipson questioned Officer Pilot after making the complaint to Police Chief Dan O'Leary. (**see Deputy Lipson Statement Page 11**) It was indicated to Officer Pilot that Sgt. [REDACTED] had been placed on administrative leave with pay until the investigation was complete.
- XXXV. Officer Pilot was notified by Police Chief Dan O'Leary by letter that the complaint was factually inconclusive and the matter was supposed to have been turned over to the Human Resource Department of the Town of Brookline to determine if there was a need for any further inquiries. (**see exhibit D**)
- XXXVI. Officer Pilot indicates he had no interaction with the Town of Brookline's Human Resource Department; he indicated he has never met the Human Resource Director, and would not be able to recognize the Human Resource Director unless formally introduced.
- XXXVII. In late December [REDACTED] sent a letter to Officer Pilot offering assistance from the his department. relative to this complaint (**see exhibit E**)
- XXXVIII. Officer Pilot did not respond (**see Lloyd Gellineau Statement E**)
- XXXIX. January 26, 2016, Officer Pilot and Officer Zerai-Misgun joined the federal lawsuit pending in the United States District Court as co-Plaintiffs in that litigation. (**See exhibit F**) At the time of joining the federal lawsuit, Officer Pilot stopped cooperating with the investigation.
- XL. At the conclusion of the interview I, Reginald Nunnally indicated that the next step in the investigation was to write the version of his statement

and allow him, Officer Pilot, to review the statement to insure the statement accurately reflects his statement.

XLI. On February 8, 2016, Complainants Officer Pilot and Officer Zerai-Misgun withdrew from the federal lawsuit.

XLII. On February 24, 2016, Complainants Officer Pilot and Officer Zerai-Misgun filed MCAD complaints.(see exhibit G)

XLIII. April 25, 2016 Officer Pilot re-engaged with me to discuss his statement,

XLIV. April 25, 2016 Officer Pilot's attorney, Hillary Schwab contacted me requesting the statement/complaint made to the Massachusetts Commission Against Discrimination be utilized as his official statement for the investigation currently underway (See exhibit A)

The officer involved was:

a. Sergeant 

Superintendent Mark Morgan Statement:

Regarding discrimination complaint by Officer Pilot

In attendance

Supt. Mark Morgan

Reginald Nunnally

On the morning of December 7, 2015 Chief O'Leary informed Supt. Morgan that Officer Prentice Pilot had requested a meeting with him. Officer Pilot had told him that Sergeant [REDACTED] had used a racial slur towards him, Chief O'Leary asked Supt. Morgan to join the meeting at this time. Officer Pilot repeated his allegation of a racial slur being used towards him by Sergeant [REDACTED] on Friday December 4th, 2015. Supt. Morgan indicated that the Chief had instructed Deputy Supt. Lipson to come to the Police Station to start an investigation. Deputy Supt. Lipson proceeded to the station and met with Chief O'Leary and Superintendent Morgan. We, Chief O'Leary and myself, (Superintendent Morgan) informed Deputy Supt. Lipson that Officer Pilot had reported that while he was working his regular shift on Friday December 4, 2015 he had stopped to talk to Sgt. [REDACTED] who was working a paid detail on Pleasant St. near Commonwealth Ave. Officer Pilot reported that he stopped his cruiser and opened his passenger window to speak with Sgt. [REDACTED] when Sgt. [REDACTED] used a racial slur towards him. We indicated that Officer Pilot wanted to meet with Deputy Supt. Lipson at a location away from the Police station to discuss the incident. Chief O'Leary indicated and I concurred this was a serious allegation and wanted to have this incident investigated immediately. The incident was investigated; Sergeant [REDACTED] was questioned and placed on administrative leave with pay until the investigation was complete. After questioning Sergeant [REDACTED], Sergeant [REDACTED] reportedly indicated he did not use a racial slur, he said he was knowledgeable about a position within the police department that had become available and Sergeant [REDACTED] would put a good word for him for the position if he would do some "nude or naked jumping jacks" after the investigation we could not find any corroborating evidence and concluded that the investigation was inconclusive and Sergeant [REDACTED] was returned to work towards the end of December 2015.

Deputy Superintendent Lipson Statement:

On the morning of 12-07-2015 I was contacted by Chief O'Leary who informed me that Officer Prentice Pilot was meeting with the Chief and Superintendent Morgan and that Officer Pilot was reporting that Sgt. [REDACTED] had used a racial slur towards him on Friday December 4th. Chief O'Leary instructed me to respond to the Police station to begin and investigation of the incident.

I responded to the station and met with Chief O'Leary and Superintendent Morgan. Officer Pilot had left the Police station. Chief O'Leary and Superintendent Morgan informed me that Officer Pilot had reported to them that while he was working on Friday December 4, 2015 he had stopped to talk to Sgt. [REDACTED] who was working a detail on Pleasant St. near Commonwealth

Ave. Officer Pilot reported to them that he stopped his cruiser and opened his passenger window to speak with Sgt. [REDACTED] when Sgt. [REDACTED] used a racial slur towards him. They relayed to me that Officer Pilot had requested to meet with me at a location away from the Police station to discuss the incident.

I spoke to Officer Pilot by phone and he requested that we meet along the Muddy River near the Carlton St. footbridge in 20 minutes. At approximately 1130 hours I met with Officer Pilot. He relayed to me that on the morning of Friday December 4th he was working his assigned shift in uniform and in a marked Police cruiser. Officer Pilot explained that he had just finished assisting at the Devotion School evacuation drill and was traveling away from the school. He travelled on Babcock St. to Commonwealth Ave. and as he approached Pleasant St. on Commonwealth Ave. he observed Sgt. [REDACTED] in uniform working a detail. The CAD Detail assignment system shows that Sgt. [REDACTED] was working a paid detail for Verizon with a start time of 0830 at Pleasant St. and Adams St.

Officer Pilot informed me that he pulled to the right on Commonwealth Ave. adjacent to where Sgt. [REDACTED] was standing and opened his passenger side window to speak with Sgt. [REDACTED]. Officer Pilot stated that it was not unusual for them to talk briefly when they saw each other. Officer Pilot stated that Sgt. [REDACTED] approached the open passenger side window and stated something to the effect of, "Why don't you pull your car up on the curb and go and give me some nigger jumping jacks and I will put in a good word for you". Officer Pilot's recollection

was not precisely clear on the words of "pulling up on the sidewalk" or "come up on the sidewalk" or "give me some" or "do some" but his recollection was clear on "nigger jumping jacks". Officer Pilot expressed to me that he was certain that the word "nigger" was used and that he couldn't believe what he had heard. Officer Pilot was also clear that Sgt. [REDACTED] said "and I'll put in a good word". Officer Pilot took this to be a reference by Sgt. [REDACTED] to Officer Pilot putting in for an opening in the traffic division and that Sgt. [REDACTED] would put in a good word for him getting that position.

Officer Pilot said that he was taken back with what he heard and did not respond. He explained that he began closing the window while driving away. He stated that it took a minute for what he had heard to settle in. Officer Pilot stated that Sgt. [REDACTED] tone was not angry or confrontational, but was more matter of fact and like the conversational tone he was used to Sgt. [REDACTED] having.

Officer Pilot was visibly upset, distraught and emotional as he recounted these events. Officer Pilot stated that after the incident he continued with his tour of duty and did not report the incident to anyone. He stated that over the weekend he discussed the matter with family and then with friends, an attorney (not identified) and a psychiatrist. During our discussion Officer Pilot was near tears at several points. Officer Pilot informed me that he had told the Chief that he did not feel ready to come back to work and was apprehensive of how he would be received by friends of Sgt. [REDACTED] on the department once they knew about what happened and if he were to return. He stated that Sgt. [REDACTED] had a lot of friend on the department and he was afraid he would be singled out and that people may not back him up. He told me that he did not feel safe coming to work at this point and needed time to work things out.

Officer Pilot informed me that he was almost certain that he and Sgt. [REDACTED] were the only two people that could hear Sgt. [REDACTED] statement. He stated that this wasn't like the "Alston" incident (a reference to Firefighter Gerald Alston) where there was a recording of the statement in question, but that it would be his word vs. Sgt. [REDACTED] word.

Officer Pilot stated that he wished no ill will towards Sgt. [REDACTED] despite the way that the people he spoke to over the weekend were reacting to what he told them had been said. He stated that he is not a violent or confrontational person and it was not in his personality to get out of the car and question what was said or fight with Sgt. [REDACTED]. He noted that he and Sgt. [REDACTED] had gotten along in

the past and that they had joked around at times, but he had never known him to say anything like that before.

Officer Pilot stated that the incident was taking a great toll on him and he needed to work things out in his mind. I offered assistance in finding counseling for him through the Chiefs office or the Boston Police Stress unit and he declined, saying that he had a lot of support away from the job and he was pursuing help that way. He stated that he was concerned that this was a P.T.S.D. type of incident.

I informed Officer Pilot that I would be interviewing Sgt. [REDACTED] as part of the investigation into this matter and would be submitting a report to the Chief. Officer Pilot and I agreed to keep in touch with further developments and the meeting ended.

At approximately 1:45 pm I contacted Sgt. [REDACTED] who had been working a paid detail and asked him if he was available to come to the station to speak with me. He stated that he had concluded his detail and was headed into Boston to meet someone. I told Sgt. [REDACTED] that I needed him to come to the station to discuss an incident that had occurred. He asked if he needed

union representation and I informed him that the meeting could result in disciplinary action. At approximately 2:30pm Sgt. [REDACTED] and Officer [REDACTED] and I met in my office. I provided Sgt. [REDACTED] and Officer [REDACTED] with a copy of the Internal Investigations Rights form and read the rights aloud to them both. Sgt. [REDACTED] then acknowledged the rights as provided and signed the form. Officer [REDACTED] signed as a witness. On the form is a section describing what the investigation concerned. It read:

Report by Officer Prentice Pilot of a racial slur used by you while working a paid detail towards him on the morning of December 4th 2015 while Officer Pilot was on-duty

I asked Sgt. [REDACTED] if he was working a detail on Friday morning and he responded that he was working a Verizon detail on Pleasant St. near Commonwealth Ave. I asked Sgt. [REDACTED] if he encountered Officer Pilot while on his detail and he responded that Officer Pilot had driven by his detail and stopped. He stated that they joked around briefly and Officer Pilot laughed and drove away. I asked what they had talked about and Sgt. [REDACTED] stated that they had just talked briefly and joked around as they often did and there was no problem. I asked again what was said and Sgt. [REDACTED] stated that they just joked for a minute and Officer Pilot laughed and left. I informed Sgt. [REDACTED] of what Officer Pilot had reported was said. Sgt. [REDACTED] responded that he told Officer Pilot to do "nude jumping jacks". I stated that Officer Pilot had reported that he said "nigger jumping jacks". Sgt. [REDACTED] became upset and said, he "absolutely did not say that" and he emphasized repeatedly that he said "nude jumping jacks". Sgt. [REDACTED] was clear and adamant that he did not use the word "nigger" and that he would not say that and that it would be "stupid" if he did. Sgt. [REDACTED] stated that Officer Pilot laughed before he drove away and he got no indication that anything was wrong. Sgt. [REDACTED] stated that he wanted to take a lie detector test, that he liked Officer Pilot and joked with him and there was no way he said that. He stated that he said he would put in a good word because he had heard that Officer Pilot had put in for a traffic position and he told him he would put in a good word with the Deputy.

I informed Sgt. [REDACTED] that I had spoken with Officer Pilot and he stated he was certain of what he heard. Sgt. [REDACTED] repeated that it did not happen that he would take a lie detector test and wanted a chance to meet with Officer Pilot to clear this up because he did not say that. He stated that he had been nervous anticipating what this meeting was about but was relieved to hear the accusation because it was false and did not happen.

I then left the room to meet with Chief O'Leary and Supt. Morgan. I then returned to my office and informed Sgt. [REDACTED] that he would be placed on administrative leave with pay. Sgt. [REDACTED] surrendered his department issued firearm to me and I in turn submitted it to Detective [REDACTED] who secured the firearm in the evidence room.

On 12-08-2015 I interviewed Verizon employees [REDACTED] and [REDACTED] who were working with Sgt. [REDACTED] on Pleasant St. [REDACTED] informed me that his large Verizon truck was parked in one of the travel lanes on Pleasant St. near Commonwealth Ave. and that he recalls a marked cruiser stopping near the detail location to speak to the detail Officer. He stated that the detail Officer went to the passenger side of the car. He stated that his truck was running and is very loud and he was moving tools off the truck and could not hear what was being said. He stated that the interaction he saw was brief and there was nothing unusual about it.

He said that later in the morning he had casual conversation with the detail Officer (Sgt. [REDACTED])

but there was no mention of the Officer who stopped by and nothing seemed unusual. [REDACTED] stated that he was working with [REDACTED] but that [REDACTED] was further down the street setting up and he didn't think he would have seen or heard any interaction between the detail Officer and the Officer in the cruiser.

I spoke with [REDACTED] and he stated that he was working with [REDACTED] but was positioned closer to Dummer St. and was not aware that a cruiser had stopped by at all. He stated that he did not hear or see anything unusual while on that assignment.

On 12-08-2015 Detective [REDACTED] canvassed for video cameras in the area of Pleasant St. and Commonwealth Ave. and determined that there were cameras on Boston University Properties in the area, but not directly at the location in question. On 12-09-2015 I went to the Boston University Police Department and viewed video from both the inbound and outbound side of the 900 block of Commonwealth Ave. These cameras did not cover the incident location. Copies of the video were provided to Dt. [REDACTED] (see exhibit I-Video)

On 12-11-2015 I received video from Sullivan Tire located at 950 Commonwealth Ave. from Dt. [REDACTED] The video shows the intersection of Commonwealth Ave. and Pleasant St. from a distance from a camera posted on the front of the business. The video covers the time from 0845 to 1015. The video shows Sgt. [REDACTED] and the Verizon crew on Pleasant St. at Commonwealth Ave. At the 37:39 mark of the video a marked cruiser traveled in bound on Commonwealth Ave. in the right travel lane pulled slightly to the right at the intersection of Pleasant St. and came to a

stop. The cruiser's rear flashers were activated and Sgt. [REDACTED] approached the passenger side window. From the distance of the camera footage you cannot read the cruiser number of the vehicle, but the markings are similar to those on the 1058 cruiser used by Officer Pilot.

The video shows that Sgt. [REDACTED] walked over to the cruiser window and leaned towards the window. At approximately the 38:46 mark of the video Sgt. [REDACTED] stood up straight and backed away. Most of the time Sgt. [REDACTED] back is to the camera. The cruiser moved slowly forward and paused for a pedestrian in the cross walk before driving away. Sgt. [REDACTED] then walked back to toward the work area and resumed monitoring traffic. The footage is consistent with the broad set of circumstances described by both Officer Pilot and Sgt. [REDACTED], but does not provide any direct evidence of what was said at the window. The video appears to confirm that the Verizon workers were not in a position to hear what was being said.

Respectfully submitted,

Deputy Superintendent Andy Lipson

Sergeant [REDACTED] interview:

Interview with Sergeant [REDACTED] regarding a complaint relative to a violation of the Discrimination, Sexual Harassment and Retaliation Policy for the Town of Brookline, Massachusetts.

Attending: Sgt [REDACTED]
Reggie Nunnally
Attorney Shapiro
Officer [REDACTED]

Date: February 4, 2016

Time: 1:00 PM

Sergeant [REDACTED] Statement:

I was on duty working a detail December 4, 2015 near the intersection of Pleasant St. and Commonwealth Ave. Officer Pilot drove by my detail and stopped. This was not unusual because Officer Pilot and I were friendly and we joked around as we have done in the past, I indicated to Officer Pilot to pull over to the curb and get out and do some "naked jumping jacks" and I would put in a good word for him for the position he was applying for in the traffic division. Officer Pilot laughed and calmly drove away. There was no indication there was a problem until I was asked to report to the Police Station on Monday January 7, 2016.

I informed Sgt. [REDACTED] that I had spoken with Officer Pilot and he stated he was certain you told him to go to the curb or side to do some "nigger jumping jacks". Sgt. [REDACTED] repeated that it did not happen that he would take a lie detector test and wanted a opportunity to meet with Officer Pilot to clear this incident up because he did not use the "N" word.

Lipson subsequently informed me that I would be placed on administrative leave with pay until an investigation was completed. Lipson asked me to surrender my department issued firearm and I in turn submitted it. I am perplexed as to the complaint as I considered Officer Pilot and myself to be friends and I would still like to meet with him to understand what has happened and hopefully clarify the situation.

Sergeant [REDACTED] was aware of and had received the Policy Against Discrimination, Sexual Harassment and Retaliation. Sergeant [REDACTED] indicated he had reviewed the policy with the Human Resources Department as part of the training but there has been no training since. He also indicated that he receives a copy of the policy on an annual basis via mail from the Human Resource Department

Sergeant [REDACTED] also indicated he was not aware of any other incidences involving complaints of racial intolerance, sexual harassment or retaliation within the department other than the complaints made by the two officers that made the complaints.

Statement by Sandra Debow,
Director of the Human Resource Department for the town of Brookline.

(Ms. Debow was going on vacation and for the sake of efficiency she conducted the interview via this questionnaire)

Officer Pilot has alleged racial discrimination based on a alleged racial slur by Sergeant [REDACTED] on December 4, 2015.

1. To your understanding, what was the specific complaint lodged by PO Pilot
Officer Pilot's complaint was that a sergeant told him to do "n***R jumping jacks.

2. When were you first notified of the Complaints from PO Pilot
I was notified immediately by the Police Chief, I believe it was on the same day that it occurred.

3. What was your response when you heard of PO Pilot complaint?
The Chief and I agreed that the allegation raised an issue under the Anti-discrimination policy. The immediate response was to remove Sgt [REDACTED] from the workplace pending the preliminary investigation as is our regular course of business. (We place employees on paid administrative leave for egregious behavior pending investigations)
Officer Pilot who became very upset by this situation was placed on a specialized assignment rather than sick leave.

We agreed the Police Chief would do a preliminary review/investigation and then he would draft a report and I would begin the investigation under the Anti-discrimination policy.

4. When did it occur
I believe the incident occurred on December 4th when Officer Prentice stopped by to say hello to Sgt [REDACTED] who was performing a detail.
5. Where did it occur?
North Brookline, near Commonwealth Avenue is my understanding
6. To your knowledge Who was the officer involved?
Sergeant [REDACTED]

7. To your knowledge had the PO been involved in any previous discrimination, sexual harassment or retaliation incidents.
The Human Resources Office is not aware that Sgt [REDACTED] has been involved in any other incidents of discrimination, sexual harassment or retaliation.
8. ** Was the incident investigated by the Brookline Police Department, if so by whom and when?
The Police Department did a preliminary investigation to determine, if Sgt [REDACTED] had in fact made this statements. This could have been determined by a witness or an admission by Sgt [REDACTED]. Deputy Superintendent Andrew Lipson conducted the internal investigation, which began on December 7, 2016, the day the matter was reported and continued until on or about December 16, 2016 when a decision was made that the matter was inconclusive and turned over to HR to perform the Investigation under the Policy.
9. **What was the result of this investigation?
The Department determined there were no witnesses and no admission and therefore the preliminary matter was deemed to be inconclusive and turned over to Human Resources.
10. Was there an investigation of by the Human Resource Department, if so by who.
Such investigations are performed by Human Resources Office, generally. In this case to ensure the public viewed the review as unbiased, an outside investigator was hired.
The HR Director made this decision once the officers spoke before the Diversity, Inclusion and Community Relations Commission, supported by members of the self-described, Brookline Justice League (BJL). The BJL's was created, in part by the Husband/Wife team of Mariela and Brooks Ames. Attorney Brooks Ames is currently representing a firefighter in a discrimination claim and the HR Director has been named as a defendant in a lawsuit. Attorney Brooks and the Brookline Justice League have previously described Ms. DeBow-Huang as being a part of the alleged institutionalized racism. As this was an important matter that needed to be investigated, particularly with regard to Officer Zerai-Misgun's allegations, the HR Director determined that it would be prudent to hire an outside

investigator to avoid any criticism by the BJJ and the public.

The HR Director and Town Counsel immediately began looking for an appropriate investigator. The Chief Diversity Officer was included in these decisions and was helpful in identifying the investigators. The investigation is currently being conducted by Mr. Reginald Nunnally on behalf of the Human Resources Department.

11. What was the result of this investigation?

This investigation is ongoing.

12. What is the official policy and procedures for dealing with discrimination, sexual harassment, or retaliation in the work place. The Town's Policy Against Discrimination, Sexual Harassment and Retaliation is that Policy that covers the statement that was allegedly made by Sgt. [REDACTED]

13. In this instance was the policy followed if not why not

The Town's Policy Against Discrimination, Sexual Harassment and Retaliation is being followed.

14. If the Patrol Officer had used the those words Naked Jumping Jacks to a Female Police Officer would that have been construed as sexual harassment. And How would that have been handled by the HR division

I'm not sure the term "naked jumping jacks" would have been deemed sexual harassment automatically, but an investigation would have been conducted. It is my understanding that this was a phrase the 2nd platoon used as joke to say

I'll get you out of trouble if you do naked jumping jacks. Apparently it is a reference an a request that was made in a lateral transfer to another police department where the applicant was asked to do jumping jacks or run on a treadmill naked. The term is meant to be "humiliating" but could also be deemed degrading on a sexual basis so I would have asked preliminary questions whether male or female. I think term that is alleged to have occurred with Prentice is far more inflammatory.

If the term was found NOT to have been deemed as sexual harassment, my recommendation would be that the Police Chief do an analysis under his department work rules as to whether the term would be deemed conduct unbecoming a police officer.

15. To your knowledge were there any witnesses? No there were not. Although there were utility workers, it is my understanding that they did not hear any statements made. I believe there was also video but that there was no audio. Since, I am not conducting the investigation, I am only going on what has been reported to me by the Police Chief.
16. Have you had the opportunity to talk with PO Pilot
I did not as the matter was being investigated by an outside investigator.
17. Do you know of any other incidents or allegations of discrimination, sexual harassment or retaliation within the Brookline Police Department?
Yes, I investigated a sexual harassment claim in 2011. It was a "paramour sexual harassment case," which arose when a Sergeant and dispatcher became involved in a relationship and the other dispatchers were alleging that the Sergeant was giving her preferential treatment. Although I found there was no technical violation of the law (we found there was no damages under the law), I did find that the supervisor's conduct may have risen to the level of "conduct unbecoming" a Brookline Police Officer and the Chief also reassigned the Sergeant so that he was no longer her direct report and that the sergeant and dispatcher-girlfriend did not regularly work together.
18. The Discrimination, Sexual Harassment and Retaliation policy was re-established in 2013, what type of training is associated with this policy for police officers, town employees.

The policy was revised in 2013 to accommodate changes in the law (gender identity) and changes in staff (Dr. Gellineau became the DO for the Town). The original policy was drafted in 2010 and distributed in early 2011. When it was first implemented the MCAD, Training group came in and performed a Supervisor Training for all

our supervisors and regular training for all other employees. (2010)

19. Is this training conducted on an ongoing basis? If so, how often does the training occur?

Formerly we "trained" mostly through distribution of policies. In 2010, we started doing more regular training. Our goal is once every three years. We did 100% of employees in 2010 and about 50% in 2014/15. We have also trained in the fire academy classes. We are exploring other ways of training more often and more conveniently.

21. Do you know who is responsible for delivering the training. We have used a variety of trainers beginning with the MCAD Trainers. Members of our Human Resources have gone through the MCAD training programs and do the training but we are actively looking for more training resources so we can do more training on a more consistent basis.

Is there anything you would like to add to this statement

Yes, Police Chief Daniel O'Leary has always been at the forefront of providing in-service training, developing a citizen review process, and other organizational changes that ensure citizens who come in contact with the police are treated safely, fairly, respectfully and with dignity. In order to achieve these goals the Police Chief holds himself and his officers to the highest standards. It is always gratifying to work with the Police Chief because he is willing to ask the tough questions and to address issues forthrightly and with transparency.

I believe the Police Chief has approached the Prentice Pilot situation with the same high level of integrity. It is unfortunate that the process was delayed because we felt it was prudent to use an outside investigator and that this matter has been played out in the public arena and on social media, venues in which we cannot respond due to confidentiality of personnel matters. The Town truly looks forward to making strides in addressing these issues head-on, recognizing that we must also do work to heal the workforce.

Summary and Findings

Summary

Officer Pilot indicated that on the morning of Friday December 4th he was working his assigned shift in uniform and in a marked Police cruiser. Officer Pilot explained that he had just finished assisting at the Devotion School evacuation drill and was traveling away from the school. He travelled on Babcock St. to Commonwealth Ave. and as he approached Pleasant St. on Commonwealth Ave. he observed Sgt. [REDACTED] in uniform working a detail. Officer Pilot indicated that he pulled his vehicle to the right on Commonwealth Ave. adjacent to where Sgt. [REDACTED] was standing and opened his passenger side window to speak with Sgt. [REDACTED]. Officer Pilot stated that it was not unusual for them to talk briefly when they saw each other. Officer Pilot stated that Sgt. [REDACTED] came to the open passenger side window and stated "Why don't you pull your vehicle to the curb and give me some nigger jumping jacks and I will put in a good word for you".

In interviewing Sergerant [REDACTED] he categorically denied making that statement He states that He said "Why don't you pull your vehicle to the curb and give me some naked jumping jacks and I will put in a good word for you".(See exhibit 17)

Findings

Finding: Section III of the Discrimination, Sexual Harassment and Retaliation Policy Prohibits Discriminatory Harassment, Hostile treatment that is based on, motivated by or expresses a negative attitude toward a person's membership in a protected class or protected characteristic and that creates an intimidating, hostile, or offensive work environment is strictly prohibited by this policy. Such prohibited hostile treatment may include, but is not limited to:

- use of epithets, slurs or nicknames that refer to a person's protected characteristic such as, but not limited to, race or sexual orientation,
- jokes that have the purpose or **effect** of demeaning or making fun of a person based on a protected characteristic,

- graffiti or other visual messages or displays that degrade a person based on a protected characteristic, and
- any other verbal or non-verbal conduct that has the purpose or effect of creating a hostile work environment based on a person's protected characteristic.

Based on interviews with Sergeant [REDACTED] (see exhibit 17) and Officer Pilot (see exhibit 16) I was not able to, according to Section X of the Discrimination, Sexual harassment and Retaliation Policy for the Town of Brookline, determine that the question of whether the facts of the alleged course of conduct constituted a violation of this Policy. I find allegations of discrimination related to this incident **inconclusive**

But.. according to the interview with Sergeant [REDACTED] in regards to what was actually said "Why don't you pull your vehicle to the curb and give me some **naked** jumping jacks and I will put in a good word for you"(see exhibit 17). Based on the investigation and according to Section IV of the Discrimination, Sexual Harassment and Retaliation Policy I find there is probable cause.

Section IV Sexual Harassment:

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any one of the three following criteria is met:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, participation in a Town program, service or activity, or receipt of a Town benefit;

1. (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or a decision regarding an individual's participation in a Town program, Service or activity or receipt of a Town benefit; OR
2. (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, participation in a Town program, service or activity, or receipt of a Town benefit, or creating an intimidating, hostile or offensive work environment.

Sexual harassment may include conduct by men toward women, men toward men, women toward men, women toward women, employees toward supervisors, supervisors toward employees, employees toward citizens or vendors, and citizens or vendors toward employees.

Sexual harassment may include, but is not limited to:

- Sexual advances or propositions or requests for sexual favors;
- preferential treatment or promises of preferential treatment for submitting to sexual conduct, or less favorable treatment or threats of less favorable treatment for not submitting to sexual conduct;
- physical attacks of a sexual nature, including rape, battery, and molestation, and attempts to do so;
- other unwelcome touching of a personal nature, including but not limited to, hugging, kissing, pinching, patting, grabbing, brushing against, and poking;
- sexual or obscene gestures, noises, whistling, remarks, suggestions, innuendo or jokes;
- comments or questions enquiring about a person's body or sexual abilities, deficiencies or experience;
- staring or leering;
- displaying (including, but not limited to, on walls, lockers, and computer screens), or by the reading or viewing, of sexually-suggestive or pornographic objects, pictures or other graphic or written material (materials being used in official police department investigations are exempt from this prohibition provided that investigating officers use reasonable care to shield the otherwise restricted material from all personnel other than those with a legitimate need to view such materials as part of his/her job responsibilities);
- disseminating sexually-suggestive or pornographic graphic or written material by voice mail, email, or websites (with an exception for official police department investigations, as provided above);
- preference to employees because they are involved in a consensual sexual relationship or less favorable treatment of same because they are not involved in consensual sexual activity; and any other verbal or non-verbal conduct of a sexual nature that has the purpose or effect of subjecting a person to an intimidating, hostile or offensive environment.

Conclusions:

The investigation regarding the allegation brought forth by Officer Pilot does not mean they did not occur it simply means that there were no facts of the alleged conduct and without facts the complaint did not constitute a violation of the Discrimination, Sexual Harassment and Retaliation Policy.

As a result of the investigation regarding allegation brought forth by Officer Pilot it is determine there is probable cause for sexual harassment according to Section IV of Discrimination Sexual Harassment and Retaliation:

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any one of the three following criteria is met:

- **Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, participation in a Town program, service or activity, or receipt of a Town benefit;**
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or a decision regarding an individual's participation in a Town program, Service or activity or receipt of a Town benefit; OR
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, participation in a Town program, service or activity, or receipt of a Town benefit, or creating an intimidating, hostile or offensive work environment

Therefore, based on the investigation there is a reasonableness that Sexual Harassment has probable cause.

Recommendations:

1. Institute an annual training of all Town of Brookline employees relative to the Discrimination, Sexual Harassment and Retaliation Policy on an annual basis. The training should include an affidavit that each employee has taken and understands the Discrimination, Sexual Harassment and Retaliation Policy and the consequences for not complying with the policy.

2. Design a training program to target conflicts in the values of all stakeholders relative to the factors that contribute to the organization's

ability to move forward. The training is to begin and continue the process, respectively; of identifying the role(s) department leadership must play in diminishing the gaps between those values and the realities they face for purposes of minimizing the re-occurrences of these conflicts in the future, which inhibit organizational responsiveness to institutional development and capacity building.

3. Identify the appropriate “public” to continue this conversation about factors contributing to the gap from their perspectives.

4. Develop a monitoring process to track the effectiveness of the results for a minimum of a five year period.

Potential individuals that have the requisite credentials to provide guidance and develop training for the above referenced recommendations

Dr. Theodore Josiha Haig JD, Ed. D

Formally managed the firm and was a partner in the consortium. The American Consortium Center for Training (ACCT) is a consortium specializing in both public and private sector institutional capacity building. The Agency is structured as a proactive and intervention ‘network’ designed to be accommodating, based on the assessed needs of our public and private sector clients in the international community, in direct proportion to their acquiring the performance results they are seeking to obtain. Our International and Qatar based consultants are experienced institutional leaders, planners and evaluators with an emphasis on strategic planning and are retained for short and/or long term intervention. Research designs, operation frameworks, evaluation designs and the KIVA, a human technology used for collecting and analyzing data, are the instruments used, when appropriate, while working with our clients.

Mr. Darnell Williams, President/CEO Urban League Eastern Massachusetts

Darnell L. Williams has been an active practitioner within the Diversity & Inclusion field for 20 years. He builds upon his organization development and adult learning academic and professional background. His recent participation in racial unrest, community relations, police

engagement, racial profiling has placed him at the center of these major discussions within Boston and greater New England. He is a trusted resource and offers valid insights to the issues at hand confronting cities and towns.

Attorney David Bowman, Partner in Law Firm Specializing in Race Issues

June 1, 2016

Ms. Sandra Debow
Director
Human Resources Office
333 Washington St.
Brookline Massachusetts 02445

Re: Investigative Report Clarification

Dear Ms. Debow,

I a point of clarification the underpinning and rationale for coming to my conclusion of Officer Pilot's allegations of discrimination was not based on Sergeant [REDACTED] voice patterns, it is quite possible that Sergeant [REDACTED] stated the word Naked and Officer Pilot heard the word "Nigger". It is absolutely impossible to determine what was actually said. Both men were adamant at what was said and what was heard. In my opinion it came down to one man's word against the word of another man. According to the Town's policy, allegations must be factually based to be conclusive. I could not find any facts to substantiate that Sergeant [REDACTED] was in violation of the Town of Brookline's Antidiscrimination, Sexual Harassment or retaliation Policy, as stated in Officer Pilot's complaint of discrimination. But because Sergeant [REDACTED] admitted (in his own words) to Chief O'Leary, Deputy Superintendent Lipson and myself with Attorney Shapiro and Officer [REDACTED] as witnesses, could be construed as a violation of the Antidiscrimination, Sexual Harassment or retaliation Policy as it relates to Sexual Harassment as outlined in the policy.

My conclusion was based on factual evidence or the lack of factual evidence.

- Fact: Officer Pilot indicated he had not previously heard Sergeant [REDACTED] say any racial remarks
- Fact: Officer Pilot and Sergeant [REDACTED] indicated that they were both friendly towards each other in the past.
- Fact: Officer Pilot was inside his vehicle, while Sergeant [REDACTED] was standing on the outside passenger side of Officer Pilot vehicle.
- Fact: There was work being conducted by Verizon employees [REDACTED] and [REDACTED] and indicated that their Verizon truck was running and the truck was very loud.
- Fact: Officer [REDACTED] and Sergeant [REDACTED] have good records within the Brookline Police Department
- Fact: A video was obtained from Sullivan Tire located at 950 Commonwealth Ave. The video shows the intersection of Commonwealth Ave. and Pleasant St. The video shows Sgt. [REDACTED] and the Verizon crew on Pleasant St. at Commonwealth Ave. At the 37:39 mark of the video a

marked cruiser traveled in bound on Commonwealth Ave. in the right travel lane pulled slightly to the right at the intersection of Pleasant St. and came to a stop. Sgt. [REDACTED] approached the passenger side window. The video shows that Sgt. [REDACTED] walked over to the cruiser window and leaned towards the window. Sgt. [REDACTED] subsequently stood up and backed away from the vehicle. The cruiser moved slowly forward and paused for a pedestrian in the cross walk before driving away. Sgt. [REDACTED] then walked back to toward the work area and resumed monitoring traffic. The footage is consistent with the broad set of circumstances described by both Officer Pilot and Sgt. [REDACTED] but does not provide any direct evidence of what was said at the window. The video appears to confirm that the Verizon workers were not in a position to hear what was being said.

- Fact: Sergeant [REDACTED] admitted to saying words to this effect “Go to the side of the curb and do some Naked Jumping Jacks and I will put a good word in for you for the assignment you are interviewing for”
- Fact: The Anti Discrimination, Sexual Harassment and Retaliation Policy stipulates that it is against policy to utilize language such as this, even in a jokingly manner. (See reference below)

Based on this series of facts there is nothing that can be factually established to warrant a violation of the Anti Discrimination, Sexual Harassment and Retaliation as alleged by Officer Pilot. Conversely what was actually admitted to be said during this encounter appears to have probable cause to be in violation of Section IV Sexual Harassment, of the Anti Discrimination, Sexual Harassment and Retaliation Policy for the Town of Brookline.

Section IV Sexual Harassment:

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any one of the three following criteria is met:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of the individual's employment, participation in a Town program, service or activity, or receipt of a Town benefit;

1. (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or a decision regarding an individual's participation in a Town program, Service or activity or receipt of a Town benefit; OR
2. (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance, participation in a Town program, service or activity, or receipt of a Town benefit, or creating an intimidating, hostile or offensive work environment.

Sexual harassment may include conduct by men toward women, **men toward men**, women toward men, women toward women, employees toward supervisors, supervisors

toward employees, employees toward citizens or vendors, and citizens or vendors toward employees.

Sexual harassment may include, but is not limited to:

- Sexual advances or propositions or requests for sexual favors;
- Preferential treatment or promises of preferential treatment for submitting to sexual conduct, or less favorable treatment or threats of less favorable treatment for not submitting to sexual conduct;
- Physical attacks of a sexual nature, including rape, battery, and molestation, and attempts to do so;
- Other unwelcome touching of a personal nature, including but not limited to, hugging, kissing, pinching, patting, grabbing, brushing against, and poking;
- Sexual or obscene gestures, noises, whistling, remarks, suggestions, innuendo or jokes;
- Comments or questions enquiring about a person's body or sexual abilities, deficiencies or experience;
- Staring or leering;
- Displaying (including, but not limited to, on walls, lockers, and computer screens), or by the reading or viewing, of sexually-suggestive or pornographic objects, pictures or other graphic or written material (materials being used in official police department investigations are exempt from this prohibition provided that investigating officers use reasonable care to shield the otherwise restricted material from all personnel other than those with a legitimate need to view such materials as part of his/her job responsibilities);
- Disseminating sexually-suggestive or pornographic graphic or written material by voice mail, email, or websites (with an exception for official police department investigations, as provided above);

Preference to employees because they are involved in a consensual sexual relationship or less favorable treatment of same because they are not involved in consensual sexual activity; and any other verbal or non-verbal conduct of a sexual nature that has the purpose or effect of subjecting a person to an intimidating, hostile or offensive environment.

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2. We understand that you consulted a linguist in making your determination as to what Sergeant [REDACTED] may have said. What did you learn about [REDACTED] voice patterns from the linguist? Was that knowledge relevant to your finding regarding what Sergeant [REDACTED] may have said?

In my interview with Sergeant [REDACTED], I asked Sergeant [REDACTED] to say in his own words what he said to Officer Pilot. When Sergeant [REDACTED] made his statement I initially thought he used the "N" word, and I asked him to repeat his statement, he repeated his statement and once again I thought I heard him say the "N" word. It was on the third iteration he stated at a slightly slower pace, when it became evident as to what he was attempting to say.

I did not technically consult with a linguist, as a linguist would have a difficult time diagnosing a speech impediment without performing an exam. I did discuss the issue of speech impediments with individuals that I worked with during my tenure with the city of Boston while with the Mayor Menino administration. In my experience working directly with Mayor Menino, who also had difficulty with certain words, on a number of occasions I misunderstood comments made by the mayor and did not ask for clarification. In researching speech impediments I discovered through Wikipedia the following;

Speech Classification:

Classifying speech into normal and disordered is more problematic than it first seems. By a strict classification, only 5% to 10% of the population has a completely normal manner of speaking (with respect to all parameters) and healthy voice; all others suffer from one disorder or another.

There are three different levels of classification when determining the magnitude and type of a speech disorder and the proper treatment or therapy: ^[2]

Sounds the patient can produce

- Phonemic – can be produced easily; used meaningfully and constructively
- Phonetic – produced only upon request; not used consistently, meaningfully, or constructively; not used in connected speech
- Stimulate sounds
 - Easily stimulated
 - Stimulate after demonstration and probing (i.e. with a tongue depressor)
 - Cannot produce the sound
 - Cannot be produced voluntarily
 - No production ever observed

Types of disorder

- **Apraxia of speech** may result from stroke or progressive illness, and involves inconsistent production of speech sounds and rearranging of sounds in a word ("potato" may become "topato" and next "totapo"). Production of words becomes more difficult with effort, but common phrases may sometimes be spoken spontaneously without effort.
- **Cluttering**, a speech and fluency disorder characterized primarily by a rapid rate of speech, which makes speech difficult to understand.
- **Developmental verbal dyspraxia** also known as childhood apraxia of speech.
- **Dysarthria** is a weakness or paralysis of speech muscles caused by damage to the nerves and/or brain. Dysarthria is often caused by **strokes**, **parkinsons disease**, **ALS**, head or neck injuries, surgical accident, or **cerebral palsy**.
- **Dysprosody** is the rarest neurological speech disorder. It is characterized by alterations in intensity, in the timing of utterance segments, and in rhythm, cadence, and

intonation of words. The changes to the duration, the [fundamental frequency](#), and the intensity of tonic and atonic syllables of the sentences spoken, deprive an individual's particular speech of its characteristics. The cause of dysprosody is usually associated with neurological pathologies such as [brain vascular accidents](#), [cranioencephalic traumatism](#)s, and [brain tumors](#).^[3]

- [Muteness](#) is complete inability to speak.
- [Speech sound disorders](#) involve difficulty in producing specific speech sounds (most often certain consonants, such as /s/ or /r/), and are subdivided into [articulation disorders](#) (also called phonetic disorders) and [phonemic disorders](#). Articulation disorders are characterized by difficulty learning to produce sounds physically. Phonemic disorders are characterized by difficulty in learning the sound distinctions of a language, so that one sound may be used in place of many. However, it is not uncommon for a single person to have a mixed speech sound disorder with both phonemic and phonetic components.
- [Stuttering](#) affects approximately 1% of the adult population.^[1]
- [Voice disorders](#) are impairments, often physical, that involve the function of the [larynx](#) or vocal resonance.

Causes:

In most cases the cause is unknown. However, there are various known causes of speech impediments, such as "[hearing loss](#), [neurological disorders](#), [brain injury](#), [intellectual disability](#), [drug abuse](#), physical impairments such as [Cleft lip and palate](#), and vocal abuse or misuse."^[4]

Language disorders;

[Language disorders](#) are usually considered distinct from speech disorders, even though they are often used synonymously.

Speech disorders refer to problems in producing the sounds of speech or with the quality of voice, where language disorders are usually an impairment of either understanding words or being able to use words and does not have to do with speech production.^[7]

References

- 1 ^ [Jump up to:](#) ^{a b} Kennison, Shelia M. (2014). *Introduction to language development*. Los Angeles: SAGE. ISBN 978-1-4129-9606-8. OCLC 830837502.
- 2 [Jump up](#) ^a Deputy, Paul; *Human Communication Disorders*; March 10, 2008
- 3 [Jump up](#) ^a Pinto JA, Corso RJ, Guilherme AC, Pinho SR, Nóbrega Mde O (March 2004). "Dysprosody nonassociated with neurological diseases--a case report". *J Voice* **18** (1): 90–6. doi:10.1016/j.jvoice.2003.07.005. PMID 15070228.
- 4 ^ [Jump up to:](#) ^{a b} "Disability Info: Speech and Language Disorders Fact Sheet (FS11)." National Dissemination Center for Children with Disabilities. <http://www.nichcy.org/pubs/factshe/fs11.txt.htm>
- 5 [Jump up](#) ^a "Speech Defect." Encyclopedia.com. <http://www.encyclopedia.com/doc/1E1-speechde.html>

- 6 **Jump up** □ ^ Scott G. G.; O'Donnell P. J.; Sereno S. C. (2012). "Emotion words affect eye fixations during reading". *Journal of Experimental Psychology: Learning, Memory, and Cognition*. doi:10.1037/a0027209.

Jump up □ ^ "NICHCY's New Home". *nichcy.org*.

3. *You mentioned to Selectmen [REDACTED] and [REDACTED] that there was evidence of a long-standing joke in the Police Department concerning "naked jumping jacks" that might have played a part in Sergeant [REDACTED] comment. Is the existence of such a joke pertinent to your conclusions?*

In interviewing Police Chief Dan O'Leary and Sergeant [REDACTED] they both mentioned to me that there appears to have been a joke relative to "Naked Jumping Jacks" at the academy. The Joke was supposed to be indicative that recruits would do whatever was necessary to successfully get through the academy process. The joke was unconfirmed. The existence of a confirmed or unconfirmed joke at the academy had no relevance to the final conclusion of the investigation. The line of questioning was an attempt to understand the rationale for the statement. It was more important for me to understand what was said or not said and find any factual evidence that it did or did not occur. I am of the opinion that the statement, even said in a joking manner, was a violation of the Anti Discrimination, Sexual Harassment and Retaliation Policy for the Town of Brookline specifically as it relates to sexual harassment.

4. *Selectmen [REDACTED] and [REDACTED] recall that you indicated that you were aware of actions taken by Chief O'Leary after Officer Zerai-Misgun and several other officers first made complaints in December of 2014. Did those steps and the effect of such steps factor in to your conclusions and recommendations?*

During my initial discussion and subsequent interviews with Police Chief Dan O'Leary he indicated that when Officer Zerai Mis-Gun made his complaint of discrimination in December of 2014, the police chief showed leadership in not denying there was a problem but attempted to address the complaints by instituting what he perceived to be a solution to a potential problem within the Brookline Police department. The solution expressed was to institute a training program that Officer Mis-Gun and Officer Pilot would have major input in addressing sensitivities regarding race relations within the police department.

The fact that Chief O'Leary was willing to implement and followed through with the implementation of a training program had no way in influencing my conclusions in this investigation. I personally thought it showed good leadership from Chief O'Leary's perspective to address an issue that is so prevalent throughout American society. Race and Racism exist in our country, to work on eradicating this issue it is

essential to have ongoing discussions and training to continuously acknowledge that it exist and to understand the effects it has on people of color.

If you or any of the selectman have further questions as it relates to the investigative reports or need further clarification for any particular segment of the reports , please do not hesitate in contacting me.

Sincerely

Reginald A. Nunnally
Consultant

* Please note for the record another point of clarification. In each of the investigative reports for Officer Pilot and Officer Zerai Mis-gun I referenced a definition of Institutionalized racism without properly referencing Wikipedia. I would like to amend the report by insuring that I properly reference the definition by referencing the Wikipedia dictionary for defining institutionalized racism.

^[1] This report has been redacted to omit private/personnel record information considered to be exempt from disclosure under the public records law. The report's exhibits are omitted due to their volume, however copies are available for inspection and copying in the Office of Town Counsel.